

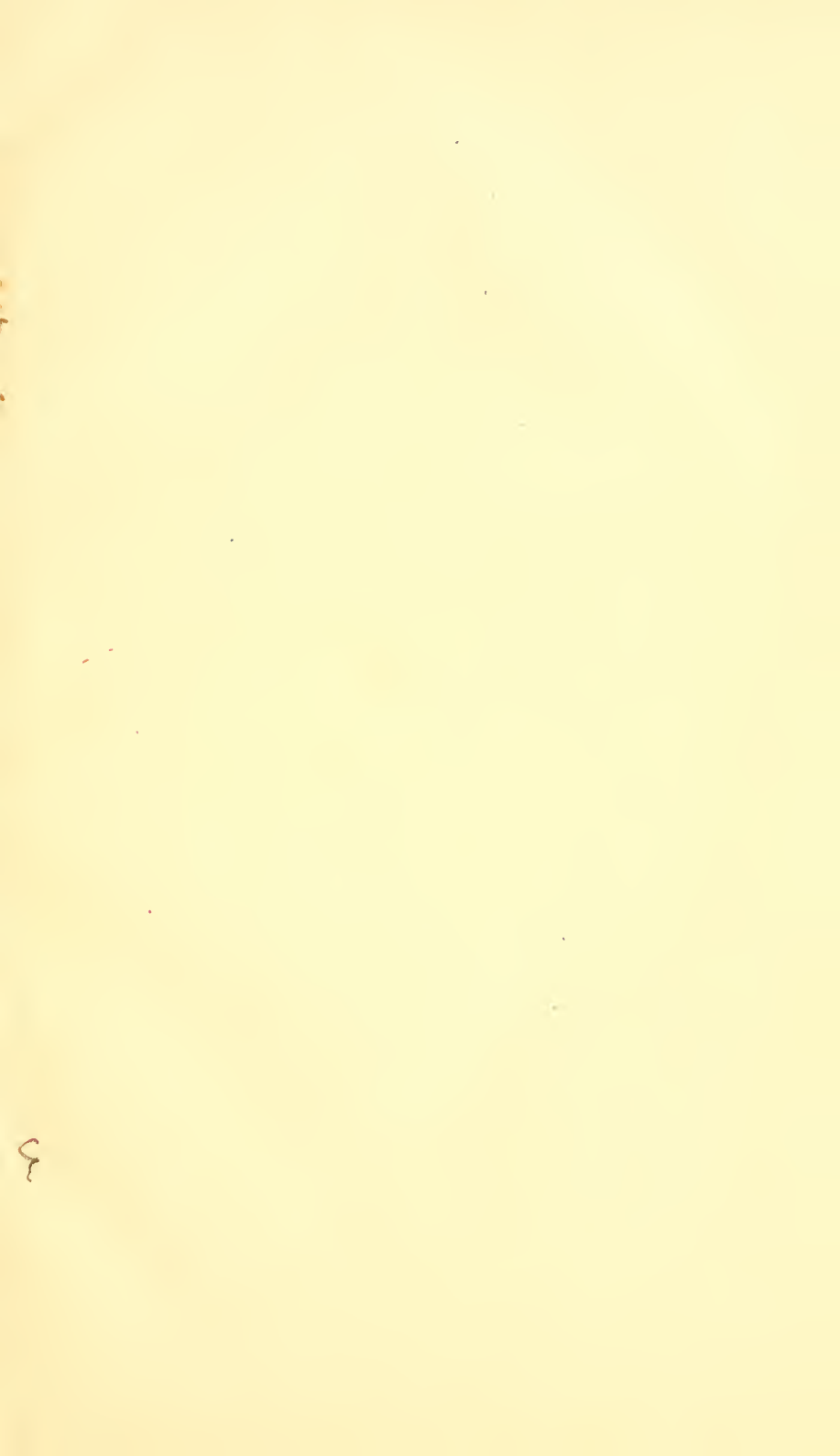
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Documents relative to the
claim of Mrs. Decatur.



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DOCUMENTS

RELATIVE TO

THE CLAIM

OF

MRS. DECATUR,

WITH HER

EARNEST REQUEST

THAT

THE GENTLEMEN OF CONGRESS WILL DO HER THE
FAVOR TO READ THEM.



WASHINGTON:

.....
1834.

JAMES C. DUNN, E ST., NEAR THE GENERAL POST-OFFICE.

E 335

I 294

(CIRCULAR.)

WASHINGTON, DEC. 15th, 1825.

DEAR SIR:—I have submitted a claim to Congress; and I am induced to trouble you with a few details relative to it, which, although pretty generally known at the time they occurred, have, I am afraid, been long since forgotten, except by those persons particularly interested in them.

My beloved husband attributed all the success of his last brilliant cruise in the Mediterranean, to the impression that had been made upon those nations by the recapture of the Philadelphia, and the attack upon the Tripolitan gun-boats: and I think you will perceive the probability of its truth, if you will compare his Squadron (three Frigates, and two or three smaller vessels) with that of Lord Exmouth, which soon followed, and which the Algerines resisted, and completely cut to pieces.*

When my beloved husband arrived off Algiers, with the force I have mentioned, he had prepared, on the passage, a treaty, containing all that this Government had ever desired, or that he himself could anticipate: more than had ever been granted, or even asked for, by any other nation.† This

** List of Vessels composing the combined Fleets under Lord Exmouth.*

Queen Charlotte, ...	100 guns.	Impregnable, ...	98 guns.
Superb, ...	74	Minden, ...	74
Albion, ...	74	Leander, ...	50
Glasgow, ...	40	Severn, ...	40
Hebrus, ...	36	Granicus, ...	36
Heron, }		Infernal, }	
Mutine, }		Belzebub, }	
Prometheus, } Brigs.		Hecla, }	
Cordelia, }		Fury, }	
Britomart, }			Bomb Vessels.

Flotilla, consisting of four gun-boats, ten mortar-boats, five rocket-boats, thirty-two gun-boats, barges and yawls.—Total 55.

Dutch.

Melampus, ...	40 guns.	Frederica, ...	44 guns.
Diana, ...	40	Amstel, ...	44
Dagaraad, ...	36	Endracht, ...	24

The English had six hundred and ninety-five wounded, and one hundred and thirty-eight killed. The Dutch had thirteen killed, and fifty-two wounded.

The squadron under Commodore Decatur consisted of three frigates, one sloop of war, one brig, and three schooners.

†Article 18th of Com. DECATUR's Treaty with Algiers, states, that, "if any of the Barbary powers, or other States at war with the United States, shall capture any American vessel, and send her into any port of the Regency of Algiers, they shall not be permitted to sell her, but shall be forced to depart the port on procuring the requisite supplies of provisions; but the vessels of war of the United States, with any prizes they may capture from

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treaty he sent on shore with a note to the Dey, stating that if it was not signed and returned to him within five hours, he would not treat with him at all. It was accordingly signed and returned within the time specified; and the Dey observed to one of his ministers, in the presence of the interpreter, that he would not have agreed to such terms for any power in the world, except the man who went in a dark night, and burnt the Philadelphia—that there was no knowing what such a person might do; and it was better to make peace upon his own terms. And thus was obtained for the United States, without the sacrifice of a life, or a spar, or even a rope, what, in a few months afterwards, cost England a great many lives, and some millions of dollars to repair the injury sustained by Lord Exmouth's squadron,* (the largest ever sent out from England) in obtaining his treaty; and which treaty has already been violated, and the nation subjected to all the expense of another war; whereas I have not heard that either Algiers, or any other of the Barbary powers, has manifested any disposition to break with us; which I think is a proof that they stand more in awe of us than of any other nation; and there has been nothing to produce such an impression, except my beloved husband's terrific attack upon them—encountering them hand to hand, while under their own batteries; a mode of warfare to which they were not accustomed from their Christian enemies; and which had such an effect upon them, that this nation is at this day reaping the benefits of it—and, I am afraid, without recollecting from whence they are derived.

their enemies, shall have liberty to frequent the ports of Algiers for refreshments of any kind, and to sell such prizes in the said ports, without paying any other customs or duties than such as are customary on ordinary commercial importations."

This article our government voluntarily relinquished in 1816, in the following words:—The United States of America, in order to give the Dey of Algiers a proof of their desire to maintain the relations of peace and amity between the two powers, upon a footing the most liberal, and in order to withdraw any obstacle which might embarrass him in his relations with other States, agree to annul so much of the 18th Article of the foregoing treaty, as gives to the United States any advantage in the ports of Algiers, over the most favoured nations having treaties with the Regency.

The Secretary of the Treasury, (the Honorable Oliver Wolcott) in a report to the President, dated the 4th January, 1797, estimates the expense of the late Treaty of Algiers, at one million of dollars, with an annual tribute of eighty thousand dollars. See Goldsborough's Naval Chronicle, p. 65. The present Treaty did not cost you a dollar! It was obtained *solely* through terror of my husband's name!—so far from costing you any thing.

* *Extract from Lord Exmouth's official letter.*—"Would to God, that in the attainment of this object, I had not deeply to lament the severe loss of so many gallant officers and men; they have profusely bled in a contest which has been peculiarly marked by proofs of such devoted heroism, as would rouse every noble feeling, did I dare to indulge in them."

N. B. There were an hundred and thirty-eight killed, and six hundred and ninety-five wounded.

It is now more than twenty years, that the United States have not lost a single cent by the depredations of any of the Barbary powers; and during that period, there is not another maritime power in the world, that has not been more or less subjected to their plunder.

The Dey of Algiers paid for every dollar's worth of property, to a very large amount, he had seized and captured during the war; a circumstance so unexpected to our Government, that they had not even authorized the demand to be made.

So soon as the peace with Algiers was concluded, my beloved husband proceeded to Tripoli and Tunis; and both these places immediately paid down the full value of the American vessels which they had permitted the British to cut out of their ports during our war with England.

I presume every one will admit, that a prize made with such an incredibly inferior force, as in the case of the Philadelphia, ought to belong exclusively to the captors, and that the same valour and spirit of enterprise which had enabled them to retake her, would have enabled them to bear her off, if the Commanding Officer of the squadron had permitted them to make the experiment. During the late war with England, our Commanders were permitted to exercise their own discretion as to the disposition of their prizes; either to destroy them, or to send them into port; and every vessel thus destroyed, was paid for by act of Congress. My beloved husband, amidst difficulties which the captors of all the other frigates deemed insurmountable, succeeded in conducting the Macedonian more than half way across the Atlantic, and got her safely into port; and he believed he could have been equally successful with the Philadelphia, if he had been permitted to make the experiment. But Commodore Preble, who was the representative of the Government, thought it more for the interest of the nation, that she should be destroyed on the spot, than to risk even the possibility of her falling again into the hands of the enemy; who would thereby have been induced to increase their extravagant demand for the ransom of Captain Bainbridge and his crew, and have protracted the expenses of the war greatly beyond the value of the frigate. But he had no idea that he was depriving his little band of heroes of the fruit of their desperate valour; or that the nation could hesitate a single moment, under such circumstances, to pay them the full value of their prize—of which he declared he would not touch a dollar—they deserved it all!!*

I hope you will have the goodness to revert to the state of your affairs with Tripoli at that period.

She was in possession of one of your largest and finest frigates, with upwards of three hundred of your most valu-

*As Mrs. Preble has petitioned for the proportion of the Commander of the squadron, I have no wish to withhold it.

able seamen and officers; while your own force; so far from being able to make any impression, was deemed inadequate to the protection of your commerce. It is therefore evident, that had it not been for the recapture of the Philadelphia, the government must have incurred the expense of fitting out a much larger squadron, or they must have acceded to the Bashaw's exorbitant demand of two hundred thousand dollars, and all his expenses for the war; for, to have left so many of your fellow-citizens in slavery, was, I presume, a thing entirely out of question.

I hope you will also recollect, that the recapture of the Philadelphia was not an event in the ordinary routine of duty: but that it was an enterprise of such a daring nature, that the Government would never have ordered it to be attempted; that it was a forlorn hope! planned and suggested by my gallant husband, with a view to frighten those barbarians into terms; and thereby to release his fellow-citizens, who had been languishing nearly two years in slavery, and the Government had not succeeded, either by negotiation or arms, in effecting their liberation. And I will beg leave further to remind you, that the same gallant spirit, by his influence and example, led his brave companions through the perilous enterprise; and that he also planned and executed the attack upon the Tripolitan gun-boats; a service from which his rank exempted him, and which promised nothing but the glory of his country.— There was no hope of promotion, for he had attained the highest grade in the Navy. There was no prospect of pecuniary profit, because the vessels to be attacked were known to be of little or no value. They were merely batteries.

I ought to offer some apology for troubling you with this detail; but I know it is that part of my beloved husband's public life, upon which he prided himself most, and I am anxious that his country should understand and appreciate it as he himself did.

The order of Commodore Preble for the destruction of the frigate was given several hundred miles distant from the scene of action: and founded on such information as he could obtain of the state of things in an enemy's port; and still more upon a firm conviction that there could not be survivors enough, after such a conflict, to ensure the safe navigation of the ship out of the reach of the enemy; and that she might possibly fall again into their hands: and as the main object was to deprive them of her, he thought it most prudent to secure that as speedily as possible. But the event proved that there was not a life lost on our side, nor an individual rendered unfit for duty. There was no attempt whatever, made by the Tripolitans to recover the ship. The captors kept possession of her some time after the victory, believing they could make a more

effectual resistance from the ship than from the ketch. There was no vessel in the harbour of sufficient force to pursue the frigate, whereas there were several vastly superior to the ketch; but such was the terror, that they did not attempt to follow her.

When this gallant enterprise was achieved, the Navy, unfortunately, had not obtained the confidence of the nation; and my beloved husband had its prosperity too much at heart, to permit him to press any subject that might tend to render it more unpopular. He therefore determined to await a more auspicious moment: and during the war with England, when a more favourable sentiment had been inspired, he thought it unpatriotic and unofficer-like, to bring forward pecuniary demands, when he knew the difficulty the Government had in raising sufficient funds to prosecute the war; and while he himself was daily using his own personal *credit* and influence, to obtain the necessary supplies for the force under his command. Immediately after the peace with England, he was ordered to the Mediterranean; and on his return from thence, he was appointed to the Navy Board, and he then thought there would be an indelicacy in bringing forward a claim in which he was so particularly concerned, while he was in daily habits of intimacy with the Members of Congress—that its success might, in that case, be ascribed to personal influence; whereas he wished it to stand exclusively upon its own merits. Since the claim devolved upon me, I had not, until within the last eighteen months, recovered sufficient energy of mind to attend to my pecuniary interests—and these are the causes why it has been so long delayed. It belongs almost exclusively to widows, orphans, and aged seamen, for whom the law makes no provision. There are at least twenty orphans, (five of whom have been recently added to the list, by the death of the gallant M'Donough) children of the brave officers who achieved this victory; who without it, will be left to grow up in ignorance and obscurity; and perhaps with feelings of disgust at the injustice of their country, in refusing them the means of becoming useful and distinguished citizens, and of perpetuating the laurels which their fathers so bravely won. I think I may venture to assert that the heroism of this achievement laid the corner stone of our naval glory: and has moreover saved to the nation many millions of dollars, that must otherwise have been sacrificed to the rapacity of the Barbary powers.

I beg leave to subjoin a copy of a note from Com. Jones, Navy Commissioner, who was a prisoner in Tripoli when the Philadelphia was recaptured.

I remain, my dear Sir, very respectfully yours,
S. DECATUR.

WASHINGTON, Dec. 8, 1825.

DEAR MADAM: In reply to your note of yesterday, I have the pleasure to say, that I know of nothing which could have rendered it impracticable to the captors to have taken the Philadelphia out of the harbour of Tripoli. *The water was sufficient, and I believe the wind was favourable;* consequently, nothing but the want of skill in the pilot who was with them, was likely to have prevented such a result, if it had been attempted. The brig Syren, which lay off the harbour, would have been sufficient to have protected her the moment that she had cleared the port. I am respectfully yours,

J.A.B. JONES.

MRS. DECATUR.

Certificate of Salvadore Catalano.

The subscriber certifies, that he was attached to the American Squadron in the Mediterranean, as pilot on board of the frigate Constitution, commanded by Commodore Preble; that he was sent in the ketch Intrepid, to pilot her into the harbour of Tripoli, for the purpose of destroying the frigate Philadelphia, then in possession of the Tripolitans; that owing to his perfect acquaintance with the harbour of Tripoli, and his personal knowledge of the people and their language, the ketch was permitted to come alongside of the Philadelphia; that he is, and always was, of opinion, that in the state of the wind at the time, and his knowledge of the current and the soundings of the harbour, that the ship might have been brought out with safety, had not orders been peremptorily given to destroy her; that he gave this opinion to Commodore Decatur, on board the Philadelphia, at the moment of her capture, who was only prevented by his orders from making the attempt;—that all the nautical men with whom he has conversed on the subject, and to whom he has explained the grounds of his opinion, have acknowledged the correctness of his statements.

SALVADORE CATALANO.

Navy Yard, Washington, Dec. 19, 1825.

My DEAR MADAM: I cannot, with any precision, state the distance that the frigate Philadelphia was from the entrance of the harbour, at the time she was set fire to, as our situation did not admit our seeing her and the whole of the harbour at the same time; but as the entire length of the harbour is about three or four miles, I am of the opinion that she must have been from *two to two and a half miles from the entrance.* Respectfully yours,

JACOB JONES.

MRS. DECATUR.

(CIRCULAR.)

GEORGETOWN, Dec. 1st, 1826.

DEAR SIR: I cannot help fearing that, in the interval which has elapsed since the adjournment of Congress, the merits of my claim may have escaped from your memory, and my documents from your hands; and I therefore again beg leave to draw your attention to them. I have, during the recess, collected some further testimony, which was called for at the last session, and which, I trust, will be found to corroborate that which had been previously laid before you.

It was asserted, during the discussion of the claim, to be "highly improbable that the ship could have been taken out of the harbour, the wind being ahead;" in answer to which, I beg leave to point out the *unquestionable* fact, that the wind was so far favourable as to enable the ketch to clear the harbour in a very short time, and without any material injury; and I will also refer you to the public histories of the transaction, (which I shall subjoin) published many years ago, when the historians could have had no motive for misrepresenting the state of the wind, for they could not have supposed that either national or individual glory had been obtained from "sailing triumphantly out of the harbour with a *favouring* breeze." It was moreover the opinion of my husband, that he could have towed the ship out (the distance being only two miles) if the wind had been adverse; that her guns, which were all loaded, would have protected the ketch while engaged in that operation; that it being dark, they had nothing to apprehend from the batteries, and that it was the flames of the frigate that exposed them to the view of the enemy, and greatly increased the peril of the enterprise. The opinion of Com. Jones, who was in Tripoli at the time, and the certificate of the pilot of the expedition, I submitted to you on a former occasion.

There were some other objections raised against the claim, which I think would be obviated by a careful perusal of Commodore Preble's orders; they were not to set fire to the ship with congreve rockets, nor with matches clandestinely applied; nor by any *stratagem* that did not imply previous victory, and *actual* possession—but his first order was to "board,"—which in technical language means, to fight in the most desperate manner—and to "carry all by the sword;" and so soon as that was accomplished, the prize was, under the existing law, the property of the captors; and if they had been permitted to take her to the squadron, the existing law would have secured to them all the benefits. That she was not so disposed of, was owing wholly to the imperative order of the commander in chief, who thought it more prudent to have her dis-

ferently disposed of; but he had no idea that his order to burn could affect in any degree the rights of the captors; and he was so mortified to find the ship was not promptly paid for, that he offered to divide his fortune with my husband, whose judgment and wishes he had opposed.

And now let me ask you, my dear Sir, whether it would be worthy of a great and high-minded nation like this, to avail herself of a trifling *informality* in the law, (caused by her own agent) to evade a just debt—I might almost say, to “defraud the fatherless children and widow, and those who have none to help them”—and in a case too where you have actually received value more than an hundred fold?—for the ransom alone of the crew of the *Philadelphia*, at the ordinary price you were then paying for your seamen, (*\$3,000 dollars per head—and they would probably have charged much more for officers) would have amounted to more than nine hundred thousand dollars; to which you may add the two hundred thousand which you were annually compelled to pay in *tribute* and presents; and moreover, the continual drafts that were made upon the Treasury for the ransom of your seamen, who were daily falling into the hands of those barbarians, and exposed to all sorts of cruelty and hardships; and also the property, amounting to upwards of two hundred thousand dollars, which my husband recovered from them during his last cruize, and which your government considered so hopeless that they did not even authorise him to ask for it;—and if the *Philadelphia* had remained in the possession of the enemy, you must have fitted out a much larger squadron, for they were then superior to you, and looked upon you with contempt and ridicule—so much so, as to offer to *sell* you a peace for a million of dollars, which you may see by referring to the files of the Navy Department.—And when you recollect all these benefits, which you have *actually* received,—to say nothing of the national character obtained—I am sure you will not wish to evade a debt due upon every principle of equity, of generosity, and of public gratitude. Let it not be said that a nation which has been *nobly generous*, can take shelter under the *letter* of the law, to be unjust.†

* See President Washington’s message to Congress on the 8th May, 1792, requesting an appropriation of forty thousand dollars, for the ransom of thirteen American captives—which was granted.

† *Extract from the President’s message to Congress, December 5th, 1803.*—“I recommend to the consideration of Congress, a just indemnification for the interests of the captors of the *Mishouda*, and *Meshboha*, yielded by them for the public accommodation.”

Congress, by act of 19th March, 1804, appropriated one moiety of their value, to be distributed among the captors; that being the proportion to which, under existing laws, they would have been entitled, if the vessels had been adjudicated and condemned as lawful prizes. See *Goldsborough’s Naval Chronicle*, page 216.

The captors of the Algerine frigate and corvette, (captured during the late

I understood that some members of the House of Representatives proposed to place this claim upon the same footing as the *Guerriere* and the *Java*—prizes made in the *ordinary* routine of duty, with a superior force on our part; and which were destroyed at the discretion of the captors! But I do hope that no one upon reflection, could *seriously* wish so to do; for the recapture of the *Philadelphia* has hitherto stood unparalleled in the annals of your navy; and although the money is of *vital* importance to all the parties concerned, yet we would all greatly prefer that the nation should continue to enjoy all the benefits, gratis, than to have the heroism of the enterprise depreciated merely to avoid paying for it!

Congress did not hesitate to pay the full value of the sloop of war *Hermes*,* which was blown up in consequence of anchoring within musket-shot of one of your garrisons, and without any circumstance of particular danger or enterprise on the part of her destroyers; and would you do less in the case of a forlorn hope, voluntarily undertaken to relieve your citizens from slavery and despair, and your Government from the humiliation of being baffled, as it had been nearly two years, and in the eyes of all Europe, by a petty barbarous foe? The value of the ship at that period, was \$300,000, which may be ascertained by a reference to the Navy Department.

The frigate recently *purchased* in New York by the Government was valued at two hundred and thirty-five thousand dollars, exclusive of her armament and stores.

There was also some difficulty started as to the proper division of the amount. It was my husband's opinion that the general law for the distribution of prize money could not be *fairly* applied in this case; because that law was founded upon the presumption that the commander acts with his *full* crew;† and ne-

war with Algiers, and presented to the Dey after the peace) were also indemnified by act of Congress, to the full value of their interests in those vessels. The British sloop of war *Hermes*, which was blown up during the war with England, was also paid for (full value) by act of Congress, March, 1816. Claims to an immense amount were paid under the Florida treaty, in cases where there had been no adjudication of the property claimed.

* Extract of a letter from Major General Andrew Jackson, to the Honorable Secretary of War, dated Mobile, September 17th, 1814.

“I have learnt that the ship which was destroyed was the *Hermes*, of 28 guns, Captain, the Honourable William H. Percy, senior officer in the Gulf of Mexico.

“Permit me to suggest the propriety and justice of allowing to this gallant band, the value of the vessel destroyed by them.”

N. B. This ship was *promptly* paid for by act of Congress; forty thousand dollars, her *full* value.

† The *Intrepid* was not a regular vessel of war, with an organized crew, but a small coasting vessel of sixty tons, used on this occasion merely as a transport, to convey my husband and his little band to and from the scene of action.

ver contemplated a case where he should take a mere handfull of them, and capture a frigate of the largest class;—and he thought that the sum voted ought to be divided in the same proportions to each individual concerned, according to his grade, as prevailed in the cases of the *Guerriere*, *Macedonian*, and *Java*—those being the only ships of the same class of the *Philadelphia*, that have ever been captured by our naval forces. And I presume that no person can think that he who planned, suggested, and executed this perilous exploit, had less merit than those commanders (he himself being one of them) who only met the enemy on the high seas, in the ordinary routine of duty, with more than equal force, and who would have been disgraced had they avoided a contest;—and more especially, when it is recollected, that had it not been for this enterprise, you would, in all human probability, have been at this day, as you then were, subjected to the humiliation of paying an enormous annual tribute! And whatever proportion of this claim my husband was entitled to, you are bound to give me. He bequeathed to me *all* his rights, and you cannot divert any portion of them from me, to give to others—however *more deserving*, without derogating from the character of his public services: they were as great, in comparison with those who served under him, as those of any other commander;—and if you were to pass a law awarding to him a smaller *relative* proportion of the amount, it would be a vote of *censure*, instead of approbation; and I cannot help thinking, that that would be a most ungrateful return for a whole life devoted to the glory of his country, and finally sacrificed for what he considered the best interests of the navy. He never had the slightest *personal* difference with his adversary; but he did conscientiously believe that he had disgraced the flag—and that he would do so again in the hour of trial; and that it would be ruinous to the navy to have him reinstated over the heads of those who had borne the heat and burthen of the war. In support of this opinion he *sacrificed* his life; and it was as much an act of devoted patriotism, as any one that marked his distinguished career.*

It was also asked whether the Syren ought not to participate? My husband thought not. The general law for the

* There is another reason why I should not be deprived of any part of my husband's rights: I am the only individual of my unfortunate class who does not receive a pension; and, moreover, my husband sacrificed many thousand dollars of his own funds, in supporting the character of his country abroad, which those associated with me in this claim have not been called upon to do. The commanding officer of a squadron in a foreign country, is viewed as the representative of his nation; and he must draw largely upon his own resources, or practice such a degree of economy as would make his country appear ridiculous; and my husband was never known to hesitate a single moment between his pecuniary interest and the honour of his country.

distribution of prize money, decides that all vessels in *sight* shall participate; because their presence serves to overawe the enemy, and influences a surrender. But in this case the enemy was wholly unapprised of the attack, and unconscious that the Syren was in their vicinity; and she did not succeed in rendering any assistance whatever.

It has been intimated that some portion of the *pecuniary* compensation might be deducted in consequence of the *honorary* rewards bestowed upon him. But that has never yet been done in a single instance since the establishment of the navy; and I hope I shall be excused for thinking that this is not a case on which to form a precedent derogatory to the commander. Captain Charles Morris was promoted from a Lieutenant to a Post Captain, (although the grade of Master Commandant was then established, which was not the case at the period of my husband's promotion,) for being First Lieutenant on board the Constitution when she captured the Guerriere; and yet it was never suggested that he ought to be deprived of a single cent of his prize money in consequence of the honorary reward.

It was also asserted, that if there had been any ground for the claim, it would not have been suffered to sleep so long. My husband's motives for postponing the application, I stated in a letter which I took the liberty to address to you last session, a copy of which I shall subjoin, with a note upon the same subject, from the Hon. Littleton W. Tazewell.

As I cannot have the advantage of explaining to you in person, as other claimants have, the merits of my claim. I hope you will do me the favour to read with attention, *all* the documents; and in that case, I am sure you will be fully convinced of its justice—for I do know that my beloved husband never, in the whole course of his life, set up a pretension, either public or private, that did not ultimately prove to be founded in justice.

I remain, very respectfully, yours,

S. DECATUR.

DOCUMENTS.

Extract of a letter from the Hon. Littleton W. Tazewell.

MY DEAR MRS. DECATUR: In reply to your letter of the 22d ult. (which, owing, I presume, to some accident, has just been received,) I will state to you, that during the lifetime of your late husband, I had many conversations with him, upon the subject of his claim upon the Government of the U. S. for the capture and destruction of the frigate Philadelphia. The first of these conversations took place, I think, in 1806, soon after he established himself in this place. In this, his object was to consult me professionally as to the validity of his claim, and as to the proper course to be adopted to obtain the payment of the amount, should I think the claim just. I then investigated the subject very maturely, and gave him a long written opinion upon it, in which I stated the reasons that induced me to consider it, not only a fair claim upon this Government, but one which it was his duty to prefer, as the guardian and protector of the officers and people who were associated with him in this daring and honourable enterprise.

Of one thing I am very certain, that during the whole course of his life, Commodore Decatur was firmly and fully persuaded, that he, his officers and crew, had a just claim upon the U. S. for the value of the frigate Philadelphia, which they had captured and burnt by the express order of their commanding officer.

I am, very respectfully and sincerely, yours,
LITT'N. W. TAZEWELL.

Norfolk, Sept. 7th, 1826.

A letter from Dr. Ridgley, Surgeon of the Frigate Philadelphia.

ANNAPOLIS, NOV. 10, 1826.

MADAM: Your letter of the 2d inst. has just been received, and I hasten to reply to it. I have a distinct—an indelible recollection of the leading events of our imprisonment. The Pacha and his court did not attempt to conceal their exultation on the capture of the frigate Philadelphia. It was a jubilee in Tripoli. So extravagant were his calculations, that he would not listen to any proposal of peace and ransom, for a less sum than one million of dollars. In this condition of affairs, it would have been impolitic to have opened a negotiation. It would have been regarded as an evidence of fear and imbecility. This tone of confidence and triumph continued until the daring enterprise led on by your gallant and lamented husband, illuminated his castle with the blaze of his trophy. The

sensation produced by the achievement was indescribable—consternation and dismay were depicted on every face. But the best evidence of its impression, was the frequent conferences of the Pacha with the Consuls, his undisguised desire to make peace, and his proposition to that effect, on terms much more moderate—I think \$200,000. The terror inspired by the recapture and conflagration, (increased by the attack of the gun-boats, on the 3d of August, 1804,) was felt during the war, and its influence was acknowledged when the treaty of peace was signed.

It may not be known to you, Madam, that I was appointed to the Consulship of Tripoli after the war, and obtained this and other information from one of the European Consuls, with whom the Pacha often conferred during our captivity, and to whom he confided his difficulties and danger.

Description can convey but an inadequate idea of the horrors of our imprisonment. We were confined in a dungeon in the centre of the castle, into which no air or light could find access, but through a small iron grate in the terrace or ceiling. To privation of pure air, wholesome food, &c. was added the annoyance of noxious reptiles. The desperation of the officers may be inferred from two attempts to escape—one by undermining, and the other by passing over the walls of the castle. An account of these enterprises and their failure, may be found in the biography of Com. Porter, published some years since, (1815, I think,) in the *Analectic Magazine* and *Naval Chronicle*.

When any communication between the squadron and the castle was announced, joy and gladness were diffused through our gloomy cells, and reiterated disappointment could not dispel the cherished hope that the happy hour of emancipation had arrived. Even at this distant period, the heart sickens at the recollection of “hope long deferred.”

That a generous legislature may grant this just claim, is the confident belief of one who knew and appreciated the high-minded and chivalric officer on whose services it is founded.

I am, Madam, with sentiments of the highest respect and consideration, your obedient servant,

JOHN RIDGELY.

Statement of M. M. Noah, late United States' Consul at Tripoli.

The memorial of Mrs. Decatur to Congress, praying for herself and the captors of the Philadelphia frigate, that the value of said frigate may be paid, has excited considerable surprise in the country. It was not for a moment supposed, that amidst the gratuities, pensions, and appropriations for services rendered during the revolutionary and late wars, that a *debt* of so high and important character was still unpaid by the nation. There appears, however, to be but one voice on the subject, viz: that the same justice and liberality which have been awarded to others, should in this case cancel a claim which has slept too long.

The Mediterranean was the cradle of the American navy. Its character and discipline—its subsequent success in war—its influence in peace—and its present high character throughout the world, have their origin in the wars declared against the several powers on the Barbary coast; and in that school of fierce contention and ultimate glory were the Hulls, Bainbridges, and Decaturs—the Perrys, Lawrences, McDonoughs, Joneses, and the galaxy of naval heroes, taught to fight and conquer. It is not, therefore, surprising that the nation should be anxiously alive to the discussion of any claim arising from services rendered in that remote quarter of the world.

Having passed some time on the Barbary coast in the public service, it became necessary to make myself familiar with the relations between the United States and those regencies, not only from their commencement, but to trace their history, the treaties, tributes, and diplomatic intercourse, as well as the wars, which finally established the independence of our flag on the coast of Africa.

Our difficulties first commenced with Tripoli—with the Pacha of which kingdom, as well as the other states, we had some indefinite arrangements; and for some time prior to the appearance of a naval force in the Mediterranean, our merchant vessels and seamen were protected by the British, Swedish, and such friendly powers, who had for many years treaties with the Barbary states—aided by occasional donations and tributes, which were considered advisable in preference to war, at a period when the naval force of the country was too limited for a hazardous experiment, and when the formidable strength and atrocious piracies of the Barbary corsairs paralyzed the efforts of the Christian powers.

As the commerce of the United States increased in the Mediterranean, the friendly interference of European powers in our behalf was considerably diminished, and it is not uncharitable to believe, that commercial rivalry first suggested to the Pacha of Tripoli to demand a considerable and perpetual tribute, or give us the alternative of war—either of which was not at that period desirable.

The capture of several of our vessels, and the consequent slavery of our citizens, roused the people to a sense of their wrongs, and war was formally declared against the Pacha of Tripoli; and our disposable force was sent to the Mediterranean, with all the young officers, including Decatur, who have subsequently perpetuated the glory and triumphs of the American flag.

This war with Tripoli was of vital importance to a nation having an infant navy, and desirous of establishing a name and a character among the governments of the earth. It was not simply to chastise an African pirate and abolish tribute—it was to secure forever to the American flag that freedom which it claimed, and to which it was every where pre-eminently entitled.

The nation, therefore, in tracing the triumphs, the discipline, and high character of the American navy to the war with Tripoli, cannot avoid being grateful to all who distinguished themselves in that memorable contest, and to reward with honour and profit those who achieved important victories.

The war at its commencement, and for two years, dragged heav-

ily, without any of those animating results which the people fondly anticipated—it was a dull routine of blockade, costly, unpropitious and discouraging—occasional proofs of valour and seamanship were discernible—jealousies and bickerings broke out among senior officers, who, far removed from their government, were compelled to exercise discretionary powers—the expense of the war was not unfelt, and taking the unpromising state of things into consideration, the Government of the United States did contemplate at one period proposing such terms of peace and payment of a small tribute, which several of the European powers then complied with—and the unfortunate capture of the Philadelphia frigate, and long captivity of her officers and crew, did not tend to inspire the nation to a further and more active prosecution of the war. The circumstances attending the capture of that vessel, are well known.

The Philadelphia frigate, commanded by Captain Bainbridge, in sailing close to the town, struck on a rock, and became stationary, under the powerful batteries of the citadel. A brisk fire between each was sustained for several hours, until the tide falling, the ship settled, and her gunwales were under water, and the Captain, officers, and three hundred men, became prisoners of war.—The Tripolitans took possession of the ship, warped her at high tide from the rocks, moored her under the castles, with the crescent waving over the star-spangled banner, while the crew were carried captives to the dungeons, to undergo the most painful suffering.

It was at this juncture, when the ship was in possession of the enemy, and under the protection of several hundred pieces of ordnance frowning from the battlements, that Decatur and a handful of brave men, in a little xebecque, disguised as fishermen, fastened themselves to the frigate, sprang on board, and after a fierce and bloody encounter with the “malignant and turban’d Turk,” on the quarter-deck, carried her at all points, drove the Turks into the sea, tore down the crimson flag, fired her in several parts, and took to their little fishing-smack and sailed off triumphantly, regarding at a distance the sublime spectacle of the crackling flames illuminating the crescents of the mosques, and the turrets of the castles—the blaze of artillery from the embrasures—the blowing up of the ship—the shrieks of the dying, and the imprecations of the Turkish soldiery together, “making night hideous.”

It has been said that Decatur, after recapturing the frigate, could not have brought her out; and in reply to that charge, it is said that his orders were positive to burn her. Burning her to the water’s edge, was calculated to make a more deep and appalling impression upon the Mussulmen than merely carrying away the ship; and this spirited act of Decatur’s, while it reflected the highest honour on his courage, was loudly applauded throughout Europe, and infused new hopes in the nation, while it created on the part of the Pacha, a higher respect for our national capacities and resources, and compelled him to propose terms of peace.

The results of this extraordinary attempt were of incalculable advantage to the nation; they led to an honourable peace; to the abolishment of tribute; to the liberation of the suffering captives; to future peace and honour; to a gallant, ambitious spirit in the navy; to

an increasing popularity in that branch of our defence; to a strict discipline—and all of which were productive of future and permanent glory in the war with the greatest naval power of the world. These consequences go far to strengthen a claim which is in itself unquestionable, and would be recognized by all well organized and just governments.

The war with Algiers in 1815 was declared upon the same principle, and prosecuted with the same views as the former one with Tripoli; but the Algerines were a much more formidable power, possessing a stronger navy, and fortifications almost impregnable; of a high, audacious, and unsubduable spirit. The command of the squadron was given to Decatur, from the settled conviction that his name was more familiar to the Barbary states, in consequence of his exploits before Tripoli, and in this idea the Government was not mistaken. I was in that neighbourhood during the Algerine war, and it is a fact unparalleled in history, and almost inconceivable in the annals of warfare, that in *fifty days* after the squadron sailed from Sandy Hook, a treaty of peace was signed between Algiers and the U. States, which included *indemnification for the past and security for the future*. In that short space of time Decatur had arrived in the Mediterranean, fought and captured a frigate, and some small vessels—killed the Algerine Admiral—sailed into the harbour of Algiers, and *ratified the treaty at the cannon's mouth*.

It was not expected that our differences with Algiers would terminate without delay, bloodshed, and cost—the nation was determined to abolish tribute and punish the Barbarians at every sacrifice—but the name of Decatur, the promptness of his movements; and his success on the threshold of the contest, saved a large sum to the government, the loss probably of valuable lives, and secured additional honour and freedom to our flag.

Here was the harvest of that fame and national honour which first sprang up at Tripoli. From Algiers, the squadron sailed for Tunis, where a gross infraction of the treaty had been committed, and nearly \$50,000 of American property had been cut out by the British. We were on the spot at the time, and perceived the effect of the same influence. "Tell your Admiral to come ashore and see me," said the Bey. "He declines coming, your highness, until these disputes are settled, which are best done on board ship." "But this is not treating me with becoming dignity; Hamuda Pacha, of blessed memory, commanded them to land and wait at the palace until he pleased to receive them." Very likely, your highness, but that was twenty years ago." "I know this Admiral; he is the same one who, in the war with Sidi Yusef, of Trablis, burnt the frigate." "The same." "Hum! why do they send wild young men to treat for peace with old powers? Then you Americans don't speak truth—you went to war with England, a nation with a great fleet, and said you took their frigates in equal fight—an honest people always speak truth." "Well, Sir, and that was true. Do you see that tall ship in the bay, with a blue flag? (the *Guerriere*) that one was taken from the British; that one near the small island, (the *Macedonian*) was also captured on equal terms; that sloop near Cape Carthage, (the *Peacock*) was also taken in

battle." The Bey laid down the telescope, reposed on his cushions, and with a small tortoise-shell comb, set with diamonds, combed his beard.

A small vessel got under weigh, and came *near the batteries*; a pinnace with a few men rowed about the harbour, and one person, dressed in the garb of a *sailor*, was *taking soundings*—it was *Decatur*. "Tell the Admiral to land," said the Bey, "and all shall be settled to his satisfaction," which was done.

From Tunis Decatur went into Tripoli with the squadron, where difficulties had also arisen. These were soon and satisfactorily settled, and the old Pacha received in the most friendly manner, the commander of the squadron, who, when a young man, had destroyed his frigate, and bearded him under his very batteries.

It is, however, unnecessary to recapitulate the naval triumphs of our flag in the Mediterranean—they are known, duly appreciated, and are sources of great and honest pride—they have procured us indemnity for the past, and security for the future—and probably no officer has done more to bring about this desirable state of things than Commodore Decatur.

Whilst these facts are every where admitted, and whilst the nation is disposed to pay the debt of gratitude due to a deceased gallant officer, the question at present relates to indemnity for destroying the Philadelphia frigate.

I am not apprised of the nature of the objections to the claim, if any objections are made. I can only say, that the nation has derived a greater benefit from the destruction of the Philadelphia frigate, than from the possession of the frigate itself. She had been captured, and was in possession of the enemy, and was recaptured and destroyed—the claim is therefore legal and equitable, and loses none of its force from its not having been heretofore liquidated. It is a claim that the nation recognises, and is bound in honor to pay, and one that the American people, I am persuaded, will feel a pleasure in adjusting to the satisfaction of the representative of Commodore Decatur, and the gallant crew who fought and conquered under him.

M. M. NOAH.

New York, November 8, 1826.

United States' Frigate CONSTITUTION, }
Syracuse Harbour, Jan. 31, 1804. }

SIR: You are hereby ordered to take command of the prize ketch, which I have named the Intrepid, and prepare her with all possible despatch for a cruise of thirty days, with full allowance of water, provision, &c. for seventy-five men. I shall send you five midshipmen from the Constitution, and you will take seventy men, including officers, from the Enterprise, if that number can be found ready to volunteer their services for *boarding and burning the Philadelphia* in the harbour of Tripoli; if not, report to me, and I will furnish you with men to complete your complement. It is expected you will be ready to sail to-morrow evening, or some hours sooner, if the signal is made for that purpose.

It is my orders that you proceed to Tripoli, in company with the Syren, lieutenant Stewart, enter that harbour in the night, *board the Philadelphia, burn her*, and make good your retreat, with the Intrepid, if possible, unless you can make her the means of destroying the enemy's vessels in the harbour, by converting her into a fire-ship, for that purpose, and retreating in your boats and those of the Syren. You must take fixed ammunition and apparatus, for the frigate's 18-pounders, and if you can, without risking too much, you may endeavour to make them the instruments of destruction to the shipping and Bashaw's castle. You will provide all the necessary combustibles for burning and destroying ships. *The destruction of the Philadelphia is an object of great importance*, and I rely with confidence on your intrepidity and enterprise to effect it.—Lieutenant Stewart will support you with the boats of the Syren, and cover your retreat with that vessel. Be sure and set fire in the gun-room births, cockpit, store-rooms forward, and births on the birth-deck.

After the ship is well on fire, point two of the 18-pounders, shotted, down the main hatch, and blow her bottom out. I enclose you a memorandum of the articles, arms, ammunition, fire-works, &c. necessary, and which you are to take with you. Return to this place as soon as possible, and report to me your proceedings. On boarding the frigate, it is probable you may meet with resistance—it will be well, in order to prevent alarm, to carry all by the sword. May God prosper and succeed you in this enterprise.

I have the honour to be, Sir, your obedient serv't.

EDWARD PREBLE.

Lieut. Commandant DECATUR, Intrepid.

On board the ketch INTREPID, at Sea, }
February 17, 1804. }

SIR: I have the honour to inform you, that in pursuance to your orders of the 31st ultimo, to proceed with this ketch off the harbour of Tripoli, there to endeavour to effect the destruction of the late U. States' frigate Philadelphia, I arrived there, in company with the United States' brig Syren, lieutenant commandant Stewart, on the 7th, but owing to the badness of the weather, was unable to effect any thing until last evening, when we had a light breeze from the N. E. At 7 o'clock I entered the harbour with the Intrepid, the Syren having gained her station without the harbour, in a situation to support us in our retreat. At half past 9 o'clock, laid her alongside of the Philadelphia, boarded, and after a short contest, carried her. I immediately fired her in the store-rooms, gun-room, cockpit, and birth-deck, and remained on board until the flames had issued from the spar-deck, hatchways, and ports, and before I had got from alongside, the fire had communicated to the rigging and tops. Previous to our boarding, they had got their tompons out, and hailed several times, but not a gun fired.

The noise occasioned by boarding and contending for possession, although no fire-arms were used, gave a general alarm on shore, and on board their cruisers, which lay about a cable and a half's

length from us, and many boats filled with men, lay around, but from whom we received no annoyance. They commenced a fire on us from all their batteries on shore, but with no other effect than one shot passing through our top-gallant sail.

The frigate was moored within *half gunshot* of the Bashaw's castle, and of their principal battery—two of their cruisers lay within two cables' length on the starboard quarter, and their gun-boats within half gunshot on the starboard bow. She had all her guns mounted and loaded, which, as they became hot, went off. As she lay with her broadside to the town, I have no doubt but some damage has been done by them. Before I got out of the harbour, her cables had burnt off, and she drifted in under the castle, where she was consumed. *I can form no judgment as to the number of men on board, but there were twenty killed. A large boat full got off, and many leapt into the sea.* We have made one prisoner, and I fear from the number of bad wounds he has received he will not recover, although every assistance and comfort has been given him.

I boarded with *sixty men and officers*, leaving a guard on board the ketch for her defence, and it is with the greatest pleasure I inform you, *I had not a man killed in this affair, and but one slightly wounded.* Every support that could be given I received from my officers, and as each of their conduct was highly meritorious, I beg leave to enclose you a list of their names. Permit me also, Sir, to speak of the brave fellows I have the honour to command, whose coolness and intrepidity was such as I trust will ever characterise the American tars.

It would be injustice in me, were I to pass over the important services rendered by Mr. Salvadore, the pilot, on whose good conduct the success of the enterprise in the greatest degree depended. He gave me entire satisfaction. I have the honour to be, Sir, &c.

STEPHEN DECATUR.

Com. EDWARD PREBLE, commanding U. S. Squadron in the Mediterranean.

Extracts from Commodore Preble's Official Despatches.

United States' Ship CONSTITUTION, }
Syracuse Harbour, 19th of February, 1804. }

SIR: I have the honour to inform you that the United States' brig Syren, lieutenant commandant Stewart, and ketch Intrepid, of four guns, lieutenant commandant Decatur, arrived here last evening from a cruise. They left this port the 3d instant, with my orders to proceed to Tripoli, and *burn the frigate*, late United States' frigate *Philadelphia*, at anchor in that harbour. I was well informed that her situation was such as to render it impossible to bring her out, and her destruction being absolutely necessary to favour my intended operations against that city, I determined the attempt should be made. I enclose you copies of my orders on this occasion, which have been executed in the most gallant and officer-like manner by lieutenant commandant Decatur, assisted by the brave offi-

cers and crew of the little ketch *Intrepid*, under his command.— Their conduct in the performance of the dangerous service assigned them, cannot be sufficiently estimated. It is beyond all praise. Had lieutenant Decatur delayed one half hour for the boats of the *Syren* to have joined him, he would have failed in the main object, as a gale commenced immediately after the frigate was on fire, and it was with difficulty the ketch was got out of the harbour. The *Syren*, owing to the lightness of the breeze in the evening, was obliged to anchor at a considerable distance from the city, which prevented her boats from rendering such assistance as they might have done, had they entered the harbour earlier.

Lieutenant Stewart took the best position without the harbour to cover the retreat of the *Intrepid*, that the lightness of the breeze would admit of; his conduct through the expedition has been judicious and highly meritorious. But few of the officers of the squadron could be gratified by sharing in the danger and honour of the enterprise.

In justice to them, I beg leave to observe, that they all offered to volunteer their services on the occasion, and I am confident, whenever an opportunity offers to distinguish themselves, that they will do honour to the service. I enclose you lieutenant commandants Stewart and Decatur's official communications, with the names of the officers on board the ketch.

With the highest respect, I have the honour to be, Sir, your most obedient humble servant,

EDWARD PREBLE.

The crew of the *Intrepid* consisted of
Lieutenant Stephen Decatur, Jr., commander.

Lieutenants { James Lawrence,
Joseph Bainbridge,
Jonathan Thorn.

Surgeon Lewis Heermann.

Midshipmen { Ralph Izard,
John Rowe,
Charles Morris, Jr.,
Alexander Lewis, AWS
John Davis,
Thomas M'Donough,
Thomas O. Anderson, from the *Syren*.

Pilot Salvator Catalano, and sixty-two men.

The *Philadelphia*, at the time she was destroyed, was lying in the harbour of Tripoli, protected not only by her own guns, and a considerable number of Turks on board, but by a number of batteries on shore, gun-boats, galleys, &c. viz:

Fort English, mounting	-	-	-	-	7 guns.
American,	-	-	-	-	7
Palace,	-	-	-	-	10
Between Palace and Molehead,	-	-	-	-	14
Molehead and Crown Battery,	-	-	-	-	19

Fort Way, - - - - -	11
Two small batteries, - - - - -	9
Malta battery, - - - - -	9
Half-moon battery, - - - - -	10
West Diamond battery, - - - - -	9
Battery with arched embrasures, - - - - -	3
Western battery, - - - - -	7

Of heavy calibre, 115 guns.

19 Gun-boats,

2 Gallies,

2 Schooners of 8 guns each, and one brig of 10 guns. All the batteries and vessels were fully manned; the whole number of troops estimated at 25,000 Arabs, &c. The whole naval force of the United States, in the Mediterranean, at that period, was 1 frigate, 3 brigs, 3 schooners, 2 bombs, 6 gun-boats, manned by 1060 men. Before the Philadelphia was taken by the Tripolitans, the demand of the Bashaw of Tripoli for peace, was 200,000 dollars, and the repayment of all his expenses during the war. After her destruction, he agreed to make peace on our terms, viz: exchange of prisoners, man for man, and \$60,000 for the surplus in his possession. The Bey of Tunis had frequently threatened war, but was deterred no doubt by the impression produced by the energy of our squadron.

Commodore Preble to the Secretary of the

Navy, February 3d, 1804, estimates the

American captives in Tripoli, at - - -	300
The Tripolitan captives, - - - - -	60

Balance of prisoners in favour of Tripoli,	<u>240</u>
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Commodore Preble to J. L. Cathcart, February 19, 1804.

The Philadelphia was got off the rocks without damage; all her guns were taken out to float her close in with the Bashaw's Castle, where she was moored; her guns were then put on board, and the ship and her batteries got in fine order. Her guns were kept loaded, tompons out, and a strong guard constantly on board.

Sidi Mahammed Dghies, Minister at Tripoli, to Captain William Bainbridge, 5th March, 1804.

In the actual state of things, and above all, on account of the anger of his excellency the Bashaw, who has rendered himself inaccessible, you must know, Captain, that I cannot undertake to charge myself with another negotiation [to obtain the benefit of fresh air for Captain B. and officers, who were kept closely confined after the burning of the Philadelphia.]

Colonel Lear to Commodore Preble, Algiers, 23d March, 1804.

The burning of the Philadelphia is a circumstance which does honour to the head which planned, and the bold enterprise which executed it. I think it must be productive of good effects to our affairs in this sea.

The loan of gun-boats, so essential in the operations before Tripoli, of August and September, 1803, was not obtained till the 13th of May, 1804. The destruction of the Philadelphia had its influence, no doubt, in obtaining the loan.

It is understood that the Bashaw of Tripoli was anxious to dispose of the Philadelphia to some of the other Barbary powers in exchange for smaller fleet vessels, with which he might extensively annoy our trade in the Mediterranean, to the protection of which, our naval force in that sea would have been inadequate. This impending mischief was avoided by the destruction of the Philadelphia.

Copy of a letter from Commodore Preble to the Secretary of the Navy.

United States' Ship CONSTITUTION, }
Syracuse Harbour, 19th of February, 1804. }

SIR: Lieutenant Decatur is an officer of too much value to be neglected. The important service he has rendered, of destroying an enemy's frigate of forty guns, and the gallant manner in which he performed it, in a small vessel of only sixty tons and four guns, under the enemy's batteries, surrounded by their corsairs and armed boats, the crews of which stood appalled at his intrepidity and daring, would, in any navy in Europe, insure him instantaneous promotion to the rank of Post Captain. I wish, as a stimulus, it would be done in this instance—it would, eventually, be of real service to our Navy. I beg most earnestly to recommend him to the President, that he may be rewarded according to his merit.

EDWARD PREBLE.

Letter from Com. Rodgers, President of the Navy Board, relative to the distribution.

WASHINGTON, Nov. 15th, 1827.

DEAR MADAM: I have received your communication of the 9th inst. wherein you request my opinion in regard to the provisions contained in the bill reported by the Naval Committee during the last session of Congress, to compensate yourself, as the widow and representative of Captain Stephen Decatur, and the officers and crew of the United States' ketch Intrepid, for the capture and destruction of the Tripolitan frigate, late the United States' frigate Philadelphia.

With respectful deference for the opinions of the honourable gentlemen who reported that bill, as well as for the opinions of oth-

er gentlemen who have expressed to you their views upon the same subject, I would take the liberty to suggest a principle of distribution which to my mind would have been equally equitable, and at the same time more likely, I conceive, to have met the views and wishes of the claimants generally. The mode I would suggest is as follows:

If the sum appropriated by Congress should be \$100,000. I would recommend setting apart \$5,000 as the proper sum for remunerating the heirs of the commanding officer of the squadron; and then divide among the officers and crew of the *Intrepid* exclusively the remaining \$95,000; apportioning to each class of the claimants the same relative share as they would have been entitled to receive, had the actual number of officers and men on board the *Intrepid* at the time she destroyed the *Philadelphia*, been precisely the same as is known to have been on board that ship at the time of her capture by the Tripolitans.

The enclosed exhibit,* which corresponds in principle with the mode of distribution suggested, will show, in the division of any amount which might be awarded, the specific sum that each officer and seaman would be entitled to receive. With great respect and regard, I am, dear Madam, your obedient servant.

MRS. SUSAN DECATUR.

JOHN RODGERS.

** The Exhibit accompanying the letter of Commodore Rogers, relative to the mode of distribution.*

Suppose Congress were to appropriate the sum of \$100,000, to reward the captors of the frigate *Philadelphia*, and to direct that the principle of distribution should be,

1st. To allow to the commanding officer of the squadron the sum of \$5,000—one-twentieth of the whole sum.

2d. To divide the residue among the officers and men, in the same relative proportions which each would receive if the crew of the *Intrepid* had consisted of the same number as that of the frigate *Philadelphia* at the time of her capture by the Tripolitans.

Then the distribution would be,

To the commander of the squadron,	\$5,000
To the commander of the ketch <i>Intrepid</i> ,	37,370.
To 2d class, 3 in number, each \$5,019 33 $\frac{1}{2}$	15,058
To 3d class, 1 " " 3,587 14	3,587 14
To 4th class, 7 " " 2,584 94	18,094 58
To 5th class, 0	
To 6th class, 62, " " 336 94	20,890 28
	<u>\$100,000 00</u>

Letter from Commodore Warrington, Navy Commissioner, relative to the distribution.

NAVY COMS.' Nov. 17. 1827.

DEAR MADAM: I have had the honour to receive your letter of yesterday, and its enclosure, which I herewith return. The distri-

bution, as stated in that paper, appears to be equitable; and will, I presume, be satisfactory to those concerned. With my best wishes for a successful termination of the case, I am, with very great respect, your obedient servant.

L. WARRINGTON.

MRS. SUSAN DECATUR.

Letters from Commodore Stewart, relative to the recapture of the Philadelphia.

BORDENTOWN, (N. J.) Dec. 12, 1826.

MY DEAR MRS. DECATUR: The re-assembling of the honourable Congress of the United States, renders it necessary to delay no longer answering your esteemed favour of June last, in which you request me to state such information, relative to the burning of the Philadelphia, in the harbour of Tripoli, as I may possess, in aid of your claim on our country, for the success of that gallant enterprise, so ably and honorably performed by your late husband. I regret that my limited abilities disqualify me from portraying, in those glowing colours of which that act is susceptible, the gallantry and perseverance with which it was performed by my late friend.

You state that your late husband had given you to understand that the project of burning that frigate at her moorings, thereby to remove a serious impediment to the future operations of the squadron against Tripoli, originated with him. This understanding was perfectly correct; it did originate with your late husband, and he first volunteered himself to carry it into effect, and asked the permission of Commodore Preble, off Tripoli, (on first discovering the frigate was lost to the squadron,) to effect it with the schooner Enterprise, then under his command. The Commander-in-Chief thought it too hazardous to be effected in that way, but promised your late husband that the object should be carried into effect on a proper occasion, and that he should be the executive officer when it was done. It was accordingly effected in the ketch Intrepid, by your husband and 70 volunteers from the schooner he commanded, at great hazard, not only of life or liberty, but that of reputation, and in the season most perilous in approaching that coast. The recollection of the difficulties and dangers he had to encounter in that expedition, of which I was an eye-witness, excites more and more my admiration of his gallantry and enterprise—and although the result shed a lustre, throughout Europe, over the American character, and excited an unparalleled emulation in the squadron, in our country alone is where it has never been duly estimated, or properly understood.

Courage, and great force alone, could not have effected it. It was necessary not only to put the smallest possible force to the hazard, but its success depended upon a very small force being used. The genius and mental resources of the executive officer, could alone compensate for the want of force and numbers. To these demands

your late husband was found fully adequate—and hence the brilliant result. The frigate was completely destroyed, in the midst of the enemy, and his retreat effected without the loss of a man.

Accept, my dear Madam, the assurance of my highest respect and esteem.

CHAS. STEWART.

MRS. SUSAN DECATUR.

NOTE —Commodore Stewart was in the squadron when the Philadelphia was recaptured. He commanded the brig Syren, which vessel was engaged in the expedition. He was the senior officer, and had also volunteered his services; and the preference was given to Commodore Decatur, because he had been the first to propose it; and in consequence of it, he was promoted over the heads of Stewart, Hull, Chauncey, and many others of the most distinguished officers of the Navy, who all admitted that he had deserved it.

PHILADELPHIA, Jan. 5th, 1827.

MY DEAR MRS. DECATUR: I received your letter of the 30th ult. to-day, in which you request information of the time your husband proposed to destroy the frigate Philadelphia, in the harbour of Tripoli. Without referring to my books and papers, now at Bordentown, I could not give you the exact dates which you wish; but this is of no moment, as the facts relative to that transaction will be sufficient.

The squadron under the command of Commodore Preble, had been detained some time, as they severally arrived at Gibraltar, (with the exception of the frigate Philadelphia and the schooner Vixen) to counteract the hostile designs of the emperor of Morocco. As soon as the Commodore had accomplished his objects in that quarter, he proceeded off Tripoli in the Constitution, accompanied by the schooner Enterprise, commanded by your husband. On arriving off Tripoli, where the Commodore expected to find the frigate Philadelphia and schooner Vixen blockading that port, he discovered that frigate at moorings in the harbour. It was at this time your late husband proposed to destroy the frigate with the Enterprise under his command; and at this time, as I stated in my former letter to you, Commodore Preble assured your husband that the frigate should be destroyed, and he should be the executive officer when done, for his having so handsomely volunteered his efforts to effect it with the schooner Enterprise.

I give you these facts as I received them from Commodore Preble and your husband, at that time, as well as from several officers then on board the Constitution.

Some time after this, I arrived at Syracuse in the Syren brig, from Algiers, and offered my services for the expedition, which were accepted by Commodore Preble.

Some time after this, when the expedition was a subject of conversation in the cabin of the Constitution, (which was frequently the case, from the extreme urgency on our part to have it effected immediately, and unwillingness on the part of the Commodore to have it executed at so perilous a season of the year, and his reluctance to put any thing to hazard in a force originally so small, but then much reduced by the loss of the frigate and her crew,) that

letters were received from Captain Bainbridge, at Tripoli, I think by way of Malta; which were partly written in lemon juice, and which the Commodore read to us, after rendering legible before the fire. In this letter the practicability of destroying the frigate was strongly urged by Capt. Bainbridge, and the mode he pointed out was by surprise. This despatch fully confirming all our ideas and previous conversations on that subject, decided the Commodore at once to carry it into effect, which was done soon after, in the manner set forth in his reports on that subject, to the Secretary of the Navy.

I remain, with the highest respect and esteem, your most obedient servant,

CHAS. STEWART.

Letter from Capt. Spence, relating to the recapture of the Philadelphia.

CLAREMONT, August 30, 1826.

MY DEAR MADAM: I have had the honour to receive your letter of the 29th instant, and with great pleasure communicate the impressions I received on rejoining the squadron, soon after the destruction of the frigate Philadelphia.

I sailed from the United States in the Syren, Captain Stewart; and, unfortunately for myself, was left on shore at Leghorn, with the ship fever. During my absence, your illustrious husband gave his name to the world, adorned with imperishable renown. So soon as my health would permit, I joined the frigate Constitution, Com. Preble, at Syracuse. I had previously been informed at Naples of the recapture and destruction of the Philadelphia by him, who was justly termed the "terror of the foe." It was an achievement admired as *unexampled*. At Naples you could hear of nothing but the "brave Decatur"—and all foreign officers with whom I conversed, spoke of it as a most brilliant affair, managed with the greatest address and intrepidity—an intrepidity which nothing but success could rescue from the imputation of rashness.

The destruction of the frigate Philadelphia is associated with the name of Decatur only, and I had always supposed him to be the projector of the enterprise, from the circumstance of his having been entrusted with its execution. There could be no other good reason assigned for the preference given him in the presence of older officers.

I am under the impression that Commodore Decatur was the first to suggest the recapture of the frigate Philadelphia; but to me, the merit of the affair appears to be wholly independent of the first suggestion.

The preparation for the enterprise, and its execution, was by him, who accomplished it in his own *peculiar way*, covering himself and his companions with honour, and the country with a glory more productive of respect than all *our previous tributes*.

ROBERT TRAIL SPENCE.

MRS. S. DECATUR.

Letter from Commodore Chauncey, relating to the recapture of the Philadelphia.

NAVY YARD, New York, 28th Dec. 1826.

MY DEAR MADAM: Your letter, of the 24th instant, I have this moment had the honour of receiving, and I hasten to state that I was not in the Mediterranean when the Philadelphia was destroyed, but I joined the squadron soon after, and it was generally understood amongst the officers that the plan for her destruction originated with your late husband; and that the execution of it was in consequence entrusted to his management. I acted under this impression when I urged on the then Secretary of the Navy, the propriety of promoting the gallant Decatur to the rank of Post Captain.

I have the honour to be, with great respect, dear madam, your faithful and obedient servant.

I. CHAUNCEY.

NOTE —Commodore Chauncey was one of the Officers over whose heads Commodore Decatur was promoted for the recapture of the Philadelphia; and, as it appears, from the foregoing letter, at Commodore Chauncey's own solicitation. This speaks volumes!!

Letter from Capt. Ridgely relative to the recapture of the Philadelphia.

PORTSMOUTH, (N. H.) Sept. 19, 1826.

MY DEAR MADAM: I have a most distinct recollection of all the circumstances attending the preparation for burning the Philadelphia; and I have no hesitation in saying that the whole originated with your late lamented husband—it was he who suggested to the late Commodore Preble the possibility of the enterprise.

I am, very sincerely, your friend and servant,
CH. G. RIDGELY.

MRS. DECATUR.

Letter from Capt. Crane relative to the recapture of the Philadelphia.

NAVY YARD, Charlestown, Sept. 14, 1826.

MY DEAR MADAM: I have the honour to acknowledge the receipt of yours of the 22d ult. My recollections are very distinct relative to the recapture of the frigate Philadelphia. It has always been my belief that Commodore Decatur planned as well as executed the enterprise.

I have the honour to be, with the highest respect, your obedient
Servant,
W. M. CRANE.

MRS. DECATUR.

Letter from Commodore Rodgers, President of the Navy Board, relative to the recapture of the Philadelphia.

WASHINGTON, Nov. 15, 1827.

DEAR MADAM: I have received your letter of the 8th instant; and in reply, have to state, that I had always supposed the plan by which the frigate Philadelphia was destroyed, was projected by your husband, and that I never heard the slightest intimation to the contrary.

With great respect and regard, I am, dear Madam, your obedient Servant,

JOHN RODGERS.

MRS. SUSAN DECATUR.

Letter from Colonel Benton, of the Senate.

MY DEAR MADAM: The vessel to which your note refers, was the sloop of war Hermes, commanded by Captain Sir William H. Percy. This sloop led the attack upon Fort Boyer, Mobile Point, in September, 1814, and had the boldness to anchor within musket shot, where the fire of the garrison destroyed her, and blew her up. She was paid for by the act of Congress, upon the petition of the garrison, in March, 1816. Yours, most sincerely,

MRS. DECATUR.

THOMAS H. BENTON.

March 8th, 1826.

Commodore Decatur and Mr. Shaler to Mr. Monroe.

U. S. Ship GURRIERE, BAY OF ALGIERS, }
July 4th, 1815. }

SIR: We have the honour to refer you to the official reports of Commodore Decatur to the Navy Department, for an account of the operations of this squadron, previously to our arrival off Algiers on the 28th ultimo.

Having received information, that the Algerine Squadron had been at sea for a considerable time longer than that to which their cruises usually extend, and that a despatch boat had been sent from Gibraltar to Algiers, to inform them of our arrival in the Mediterranean, we thought they might have made a harbour where they would be in safety. We, therefore, whilst they were in this state of uncertainty, believed it a proper moment to deliver the President's letter, agreeably to our instructions. Accordingly, on the 29th ult. a flag of truce was hoisted on board the Guerriere, with a Swedish flag at the main. A boat came off about noon, with Mr. Norduling, Consul of Sweden, and the Captain of the Port, who confirmed the intelligence we had before received, and to whom we communicated information of the capture of their Frigate and Brig. The impression made by these events, was visible and deep. We

were requested by the Captain of the Port, Mr. Norduling declaring that he was not authorized to act, to state the conditions on which we would make peace; to which we replied, by giving the letter of the President to the Dey, and by a note from us to him, a copy of which (No. 1) we have the honour to transmit herewith.

The Captain of the Port then requested that hostilities should cease, pending the negotiation, and that persons authorized to treat should go on shore; he and Mr. Norduling both affirming that the Minister of Marine had pledged himself for our security and return to our ships, when we pleased. Both these propositions were rejected, and they were explicitly informed, that the negotiation must be carried on, on board the fleet, and that hostilities, as far as they respected vessels, could not cease. They returned on shore. On the following day, the same persons returned; and informed us that they were commissioned by the Dey to treat with us on the proposed basis, and their anxiety appeared extreme to conclude the peace immediately.

We then brought forward the model of a treaty, which we declared would not be departed from in substance; at the same time declaring, that although the United States would never stipulate for paying tribute under any form whatever, yet that they were a magnanimous and generous nation, who would, upon the presentation of Consuls, do what was customary with other *great* nations in their friendly intercourse with Algiers.

The treaty was then examined, and they were of opinion that it would not be agreed to in its present form; and particularly requested that the article requiring the restitution of the property they had captured, and which had been distributed, might be expunged, alleging that such a demand had never before been made upon Algiers. To this it was answered, that the claim was just, and would be adhered to. They then asked whether, if the treaty should be signed by the Dey, we would engage to restore the captured vessels; which we refused. They then represented, that it was not the present Dey who had declared the war, which they acknowledged to be unjust, conceding that they were wholly in the wrong, and had no excuse whatever; requesting, however, that we would take the case of the Dey into consideration, and upon his agreeing to terms with us more favourable than had ever been made with any other nation, to restore the ships, which they stated would be of little or no value to us, but be of great importance to him, as they would satisfy the people with the conditions of the peace we were going to conclude with him. We consulted upon this question, and determined that, considering the state of those vessels, the sums which would be required to fit them for a passage to the United States, and the little probability of selling them in this part of the world, we would make a compliment of them to his Highness in the state they then were; the Commodore engaging to furnish them with an escort to this port. This, however, would depend upon their signing the treaty, as presented to them, and could not appear as an article of it, but must be considered as a *favour* conferred on the Dey by the United States. They then requested a truce to deliberate upon the terms of the proposed treat-

ty, which was refused. They even pleaded for three hours. The reply was, "not a minute—if your squadron appear in sight before the treaty is actually signed by the Dey, and the prisoners sent off, ours will capture them." It was finally agreed that hostilities should cease, when we should perceive their boat coming off with a white flag hoisted; the Swedish Consul pledging his word of honour not to hoist it unless the treaty was signed, and the prisoners in the boat. They returned on shore; and although the distance was full five miles, they came back within *three hours*, with the treaty signed as we had concluded it, and the prisoners.

During the interval of their absence, a corvette appeared in sight, which would have been captured, had they been detained one hour longer. The treaty has since been drawn out anew, translated by them, and duly executed by the Dey, which we have the honour to transmit herewith.

Mr. Shaler has since been on shore, and the cotton and the money mentioned in the 4th article, have been given up to him.— They now show every disposition to maintain a sincere peace with us, which is doubtless owing to the dread of our arms; and we take this occasion to remark, that, in our opinion, the only secure guarantee we can have for the maintenance of the peace just concluded with these people, is the presence in the Mediterranean of a respectable naval force.

As this treaty appears to us to secure every interest within the contemplation of the Government, and as it really places the United States on higher ground than any other nation, we have no hesitation on our part in fulfilling such of its provisions as are within our power, in the firm belief that it will receive the ratification of the President and Senate.

We have the honour to be, with great respect, &c. &c.

STEPHEN DECATUR.

WILLIAM SHALER.

The Hon. JAMES MONROE, Sec. of State.

Commodore Decatur to the Secretary of State.

U. S. Ship *Guerriere*, }
MESSINA, August 31st, 1825. }

SIR: Since I had the honor of communicating to you the result of our negotiation at Algiers, I have visited Tunis and Tripoli with a part of the squadron under my command. On my arrival at those places, I found that the British had, during the late war, violated the neutrality of those ports by cutting out from each of them, two prizes of the American privateer *Abœlino*. On my arrival at the Bay of Tunis, the facts I have stated, were communicated to me. The information of our having humiliated Algiers, and brought her to our own terms so speedily, had preceded us, and filled those people with an alarm that was apparent. I therefore concluded that the present moment would be the best for urging our claim for indemnification; and although I did not feel myself legally authorized

to enter into a negotiation which might compromit the peace of the nation, I considered the risk so small, and the reputation the country would acquire, so great, should we succeed, that I decided to proceed in it. I accordingly addressed a note (of which No. 1 is a copy) to the prime minister. To this note I received an answer, acknowledging the justice of the claim, but begging that the term of twelve months might be allowed, in which to pay the money, and requesting that I would go on shore to see the Bey. I replied that I still insisted upon immediate justice being done; and that until I had received assurances of this, I could not wait upon his excellency. On the following day I received a second communication from the prime minister, informing me that the Bey had decided to pay the money as I required. I then went on shore, and waited upon the Bey, who received me very civilly.

The Bey had paid into the hands of our Consul, who had been appointed agent for the privateer, \$46,000. This was the amount specified in the protest. The prizes were valued at what they would have been then worth in America, at the war prices.

The affair with Tripoli was arranged very much in the same manner, and with equal facility. The Bashaw had heard of our intended visit, and had collected twenty thousand Arabs, horse and foot. So soon as we appeared off the town, Mr. Jones, our Consul, came on board. He had refused to hoist the flag of the United States since the day the prizes were cut out of the harbour. No. 3 is a copy of the communication I made to the prime minister on my arrival. In answer, he admitted the justice of the claim, but desired an abatement of the amount. I considered myself bound to adhere to the amount stated in the protest. On the next day the Governor of Tripoli came on board; and it was agreed that if the Pacha would pay into the hands of the Consul the value of the two prizes, as estimated in the protest, and would deliver on board the squadron ten Christian captives, the national flag should again be hoisted, provided they would salute it with thirty-one guns, the number given to the French flag—twenty-seven being the usual number. The money, amounting to \$25,000, was paid into the hands of Mr. Jones, and eight Neapolitan captives, and two Danish captives, were sent on board the squadron. No. 4 is a copy of the Consul's acknowledgment of the final termination of this affair.

I have the honour to be, with high respect and consideration, Sir, your most obedient servant.

STEPHEN DECATUR.

The Hon. JAMES MONROE.

Commodore Decatur to the Prime Minister of Tunis.

U. S. Ship GUERRIERE, }
Bay of Tunis, July 26, 1815. }

SIR: I have the honour to enclose to your excellency a despatch from the Department of State of the U. States, by which you will perceive the friendly disposition of my government towards the Bey and Regency of Tunis. When that despatch was written, it was believed that an equally friendly disposition existed on the part of Tunis. With surprise, I understood, on my arrival in the Mediterra-

nean, that the treaty existing between the two countries had been violated on the part of Tunis, first, by permitting two vessels, which had been captured by an American vessel, to be taken out of the port of Tunis by a British cruizer; and secondly, by sanctioning a company of Jew merchants, subjects of Tunis, in taking the property of an American citizen, at their own price, and much below its real value.

In consequence of this information, so soon as we had obtained justice from Algiers for their aggressions, I hastened to this port, with the power and disposition to exact from this Regency an observance of our treaty. I now require an immediate restitution of the property, or of its value. Your excellency will perceive the necessity of the earliest attention to this communication, and of making known to me the decision of his excellency the Bey, with the least possible delay.

I have the honour to be, with great consideration, your excellency's most obedient servant.

STEPHEN DECATUR,

Com. in Chief of the Naval Forces in the Med.

[From the *Analectic Magazine*, Vol. I, for 1813.]

When Lieutenant Decatur returned to the United States, he was ordered to take command of the *Argus*, and proceed in her to join Com. Preble's squadron, then in the Mediterranean, and on his arrival there, to resign the command of the *Argus* to Lieut. Hull, and take the schooner *Enterprise*, then commanded by that officer. After making that exchange, he proceeded to Syracuse, where the squadron was to rendezvous. On his arrival at that port, he was informed of the fate of the frigate *Philadelphia*, which had ran aground on the Barbary coast, and fallen into the hands of the Tripolitans. The idea immediately presented itself to his mind of attempting her recapture or destruction. On Commodore Preble's arrival, a few days afterwards, he proposed to him a plan for the purpose, and volunteered his services to execute it. The wary mind of that veteran officer at first disapproved of an enterprise so full of peril; but the risks and difficulties that surrounded it only stimulated the ardour of Decatur, and imparted to it an air of adventure, fascinating to his youthful imagination.

The consent of the Commodore having been obtained, Lieutenant Decatur selected for the expedition, a ketch (the *Intrepid*) which he had captured a few weeks before from the enemy, and manned her with seventy volunteers, chiefly from his own crew. He sailed from Syracuse on the 3d February, 1804, accompanied by the United States' brig *Syren*, Lieutenant Stewart, who was to aid with his boats, and to receive the crew of the ketch, in case it should be found expedient to use her as a fire ship.

After fifteen days of very tempestuous weather, they arrived at the harbour of Tripoli a little before sunset. It had been arranged between Lieutenants Decatur and Stewart, that the ketch should enter the harbour about 10 o'clock that night, attended by the boats of the *Syren*. On arriving off the harbour, the *Syren*, in consequence of a change of wind, had been thrown six or eight miles without the in-

trepid. The wind at this time was fair, but fast declining, and Lieutenant Decatur apprehended that, should he wait for the Syren's boats to come up, it might be too late to make the attack that night. Such delay might be fatal to the enterprise, as they could not remain longer on the coast, their provisions being nearly exhausted. For these reasons, he determined to adventure into the harbour alone, which he did about eight o'clock.

An idea may be formed of the extreme hazard of this enterprise from the situation of the frigate. She was moored within half gunshot of the Bashaw's castle, and of the principal battery. Two of the enemy's cruisers lay within two cable's length, on the starboard quarter, and their gun-boats within half gunshot, on the starboard bow. All the guns of the frigate were mounted and loaded. Such were the immediate perils that our hero ventured to encounter with a single ketch, beside the other dangers that abound in a strongly fortified harbour.

Although from the entrance of the place where the frigate lay was only three miles, yet, in consequence of the lightness of the wind, they did not get within hail of her until eleven o'clock. When they had approached within two hundred yards, they were hailed and ordered to anchor, or they would be fired into. Lieutenant Decatur ordered a Maltese pilot who was on board the ketch, to answer that they had lost their anchors in a gale of wind on the coast, and therefore could not comply with their request. By this time it had become perfectly calm, and they were about fifty yards from the frigate. Lieutenant Decatur ordered a small boat that was alongside the ketch to take a rope and make it fast to the frigate's fore chains. This being done, they began to warp the ketch along side. It was not until this moment that the enemy suspected the character of their visitor, and great confusion immediately ensued. This enabled our adventurers to get alongside of the frigate, when Decatur immediately sprang on board, followed by Mr. Charles Morris, midshipman. These two were nearly a minute on deck, before their companions could succeed in mounting the side. Fortunately, the Turks had not sufficiently recovered from their surprise to take advantage of this delay. They were crowded together on the quarter deck, perfectly astonished and aghast, without making any attempt to oppose the assailing party. As soon as a sufficient number of our men had gained the deck, to form a front equal to that of the enemy, they rushed in upon them. The Turks stood the assault but a short time, and were completely overpowered. About twenty were killed on the spot, many jumped overboard, and the rest fled to the main deck, whither they were pursued and driven to the hold.

After entire possession had been gained of the ship, and every thing prepared to set fire to her, a number of launches were seen rowing about the harbour. This determined Lieut. Decatur to remain in the frigate, from whence a better defence could be made than from on board the ketch. The enemy had already commenced firing upon them from their batteries and castle, and from two corsairs that were lying near. Perceiving that the launches did not attempt to approach, he ordered that the ship should be set on fire,

which was done, at the same time, in different parts. As soon as this was completely effected, they left her; and such was the rapidity of the flames, that it was with the utmost difficulty they preserved the ketch. At this critical moment, a most propitious breeze sprang up, blowing directly out of the harbour, which in a few minutes, carried them beyond the reach of the enemy's guns, and they made good their retreat, without the loss of a single man, and with but one wounded.

For this gallant and romantic achievement, Lieutenant Decatur was promoted to the rank of Post Captain, there being at that time no intermediate grade. This promotion was particularly gratifying to him, inasmuch as it was done with the consent of the officers over whose heads he was raised.

In the ensuing spring, it being determined to make an attack upon Tripoli, Com. Preble obtained from the King of Naples the loan of six gun-boats and two bombards, which he formed into two divisions, and gave the command of one of them to Capt. Decatur, the other to Lieutenant Somers. The squadron sailed from Syracuse, consisting of the frigate *Constitution*, the brig *Syren*, the schooners *Nautilus* and *Vixen*, and the gun-boats.

Having arrived on the coast of Barbary, they were for some days prevented from making the attack, by adverse wind and weather. At length, on the morning of the 3d of August, the weather being favourable, the signal was made from the Commodore's ship to prepare for action, the light vessels towing the gun-boats to windward. At 9 o'clock the signal was made for bombarding the town and the enemy's vessels. The gun-boats were cast off, and advanced in a line ahead, led on by Captain Decatur, and covered by the frigate *Constitution*, and the brigs and schooners. The enemy's gun-boats were moored along the mouth of the harbour, under the batteries, and within musket-shot. Their sails had been taken from them, and were ordered to sink, rather than abandon their position. They were aided and covered likewise by a brig of 16, and a schooner of 10 guns.

Before entering into close action, Capt. Decatur went alongside each of his boats, and ordered them to unship their bowsprits and follow him, as it was his intention to board the enemy's boats.—Lieut. James Decatur commanded one of the boats belonging to Lieut. Somers' division, but being further to windward than the rest of his division, he joined and took orders from his brother.

When Capt. Decatur, who was in the leading boat, came within range of the fire from the batteries, a heavy fire was opened upon him from them and the gun-boats. He returned their fire, and continued advancing until he came in contact with the boats. At this time, Com. Preble, seeing Decatur approaching nearer than he thought prudent, ordered the signal to be made for a retreat; but it was found that in making out the signals for the boats, the one for a retreat had been omitted. The enemy's boats had about forty men each; ours an equal number, twenty-seven of whom were Americans and thirteen Neapolitans. Decatur, on boarding the enemy, was instantly followed by his countrymen, but the Neapolitans remained behind. The Turks did not sustain the combat, hand to

hand, with that firmness they had obtained a reputation for: in ten minutes the deck was cleared; eight of them sought refuge in the hold; and of the rest, some fell on the deck, and others jumped into the sea. Only three of the Americans were wounded.

As Decatur was about to proceed out with his prize, the boat which had been commanded by his brother came under his stern, and informed him that they had engaged and captured one of the enemy; but that her commander, after surrendering, had treacherously shot Lieut. James Decatur, and pushed off with the boat, and was then making for the harbour.

The feelings of the gallant Decatur, on receiving this intelligence, may more easily be imagined than described. Every consideration of prudence and safety was lost in his eagerness to punish so dastardly an act, and to revenge the death of a brother as basely murdered. He pushed within the enemy's line with his single boat, and having succeeded in getting alongside of the retreating foe, boarded her at the head of eleven men, who were all the Americans he had left.

The fate of this contest was extremely doubtful for twenty minutes. All the Americans except four were now severely wounded. Decatur singled out the commander as the peculiar object of his vengeance. The Turk was armed with an esponton—Decatur with a cutlass: in attempting to cut off the head of the weapon, his sword struck on the iron, and broke close to the hilt. The Turk at this moment made a push, which slightly wounded him in the right arm and breast. He immediately seized the spear, and closed with him. A fierce struggle ensued, and both fell—Decatur uppermost. By this time the Turk had drawn a dagger from his belt, and was about to plunge it in the body of his foe, when Decatur caught his arm, and shot him with a pistol which he had taken from his pocket. During the time they were struggling on the deck, the crews rushed to the aid of their commanders, and a most sanguinary conflict took place; insomuch, that when Decatur had despatched his adversary, it was with the greatest difficulty he could extricate himself from the killed and wounded that had fallen around him.

It is with no common feeling of admiration that we record an instance of heroic courage and loyal self-devotion, on the part of a common sailor. During the early part of Decatur's struggle with the Turk, he was assailed in the rear by one of the enemy, who had just aimed a blow at his head, with his sabre, that must have been fatal; at this fearful juncture, a noble hearted tar, who had been so badly wounded as to lose the use of his hands, seeing no other means of saving his commander, rushed between him and the uplifted sabre, and received the blow on his own head, which fractured his skull. We love to pause and honour great actions in humble life, because they speak well for human nature. Men of rank and station in society often do gallant deeds, in a manner from necessity; their conspicuous situation obliges them to do so, or their eagerness for glory urges them on; but an act like this we have mentioned, so desperate, yet so disinterested—done by an obscure, unambitious individual, a poor sailor, can spring from

nothing but innate nobleness of soul. We are happy to add, that this generous fellow survived, and now receives a pension from government.

Decatur succeeded in getting with both of his prizes to the squadron, and next day received the highest commendation, in a general order, from Commodore Preble.

From the North American Review.

"The frigate Philadelphia, Captain Bainbridge, by an unforeseen and inevitable accident, had already been captured by the Tripolitans. This misfortune, which threw a number of accomplished officers and a valient crew into oppressive bondage, and which had shed a gloom over the whole nation, as it seemed at once to increase the difficulties of peace an hundred fold, was soon relieved by one of the most daring and chivalrous exploits that is found on our naval annals. Lieutenant Stephen Decatur, then one of Commodore Preble's subalterns, proposed a plan for recapturing or destroying the Philadelphia. The American squadron were at this time lying at Syracuse. Agreeably to the plan proposed, Lieutenant Decatur, in the ketch Intrepid, four guns and seventy-five men, proceeded under the escort of the Syren, Captain Stewart, to the harbour of Tripoli. The Philadelphia lay within half gunshot of the Bashaw's castle, and several gun-boats and cruisers surrounded her with zealous vigilance. The Intrepid entered the harbour alone about eight o'clock in the evening, and succeeded in getting near the Philadelphia between ten and eleven o'clock, without having awakened suspicion of her hostile designs. This vessel had been captured from the Tripolitans, and assuming for this occasion her former national appearance, was permitted to warp alongside, under the alleged pretence that she had lost all her anchors. The moment the vessels came in contact, Decatur and his followers leaped on board, and soon overwhelmed a crew which was paralyxed with consternation. Twenty of the Tripolitans were killed. All the surrounding batteries being opened upon the Philadelphia, she was immediately set on fire, and not abandoned until thoroughly wrapped in flames; when a favouring breeze springing up, the Intrepid extricated herself from her prey, and sailed triumphantly out of the harbour, amidst the light of the conflagration."

From the Washington Journal.

FROM ALGIERS.

Extract of a Letter to the Editor, dated ALGIERS, August 25, 1826.

A few hours only are left me to write to you and my friends.—The vessel which affords us this occasion for Marseilles, belongs to Curacao, owned by Capt. Cushing Stetson, formerly of Boston, and

is loaded with Campeachy wood, by merchants of that city. She was bound from Campeachy to Marseilles, and within 60 miles of that city was visited by the Algerine Squadron, cruising against Spanish commerce, and being found without a *Mediterranean pass*, was brought in here. Had it not been for the undaunted spirit and inflexible character of Mr. Shaler, this vessel would have been confiscated. The cargo was actually confiscated by the Minister of Marine, *Vik el Hargee*, but was subsequently liberated by the Bashaw, on certain conditions. Our Consul declared to the Minister that the confiscation would be the cause of war. The Minister, under evident restraint, and even fear, exclaimed, "*kuf shey American!*" Who are the Americans—"are they the heavens," that we are eternally opposed by them? This discussion with the Bashaw proved him to be a man of fine judgment, and a Prince of elevated and magnanimous sentiments. He said that he well knew the stipulations of the treaty between the Regency and the United States, *for he was not, as in former days, unable to read*, and would scrupulously observe them. If the most precious cargo of the Indies, of pearls, and ingots of gold, were brought into this port, and proved to be American property, they should be held sacred, and restored. I was charmed with the urbanity and dignified manners of this barbarous chief.

[To whom is this nation indebted for this state of security? I do not hesitate to answer, to my gallant husband and his brave associates!!!
S. DECATUR.]

Extract of a despatch from Major Henry Lee, Consul General of the United States, at Algiers, dated Algiers, 20th December, 1829, to Mr. Van Buren, Secretary of State.

"I mention these circumstances not only to evince the efficacy of the mode of proceeding which was prescribed to me, but in order to mark the elevation to which our national character and influence in this quarter, have been advanced by the prudence and ability of my worthy predecessor, and by the good conduct of our naval commanders in the Mediterranean; but chiefly by the prowess of one whose services and glory could not save him from an early and a hapless fate. In this distant region, on this barbarous shore, in tongues that are strange and various, the name of Decatur is remembered in honour and repeated with respect; his country profiting by his valour long after his mortal frame has mouldered into dust. So valuable may be the virtues of one officer to his fellow-citizens."

LEGAL OPINION OF WALTER JONES, ESQ.

Remarks upon the Claim of Mrs. Decatur, as representative of the late Com. Decatur, in behalf of herself and of the officers and men of the ketch Intrepid, for compensation in the nature of prize money, for the capture of the Philadelphia in the harbour of Tripoli.

That the captors might, if not peremptorily enjoined to the contrary by their orders, have brought off their prize, and reaped the pecuniary reward designed them by the law, is a matter of the highest probability; and approximates certainly as near as any unaccom-

plished event can do. They found her completely equipped and fitted for sea, and prepared for action,—even to the loading of her guns. After all the time spent in the action; in preparations to execute the order for the destruction of the ship; in the effectual application of the means of destruction, according to the details of the order; and in waiting to see the progress and effect of the same, and to repel the apprehended attempts of the enemy to retake the ship, before her destruction had been placed beyond doubt; after all this lapse of time, the captors effected their retreat, in their own vessel, without the loss of a man. I apprehend that the means and the chances of escape in the captured frigate, were incalculably greater and more certain, if the captors had been at liberty to cut her cables and hoist sail, the instant they had mastered her decks. Two obstacles were to be apprehended and guarded against, whether they retreated in their own vessel, or in the prize; recapture and impediments of navigation. Against the first, the superior means of defence in the frigate are too obvious to be insisted on: I take it for granted, that her faculties as a sailer, the depth of water, and other circumstances, must have opened her a way to the sea, at least as safe and speedy as that of the ketch *Intrepid*. But the time which would thus have been gained, must be held conclusive. The advantage it would have given the captors is incalculable:—and even if it were possible to suppose that the intrinsic difficulties opposing their egress in the frigate, were greater than what they encountered in the ketch, (an hypothesis deemed wholly inadmissible) still the advantage of time must more than have compensated them. Com. Preble framed his order when at a great distance from the scene of action; and, reasoning from probabilities and circumstances in general, he inferred that the enterprise, even to the extent of taking and destroying the frigate, would have been attended with more difficulty and loss than actually occurred. He did not anticipate the consequences, to their full extent, of the panic terror, with which the suddenness of the attack and the heroic bearing of the assailants struck the enemy: he probably anticipated desperate resistance, and a serious sacrifice of life. It was obviously impossible for him, at that distance, to judge of the actual state and condition of the frigate, or of the existing means and facilities for bringing her off; which must have depended upon contingencies which he had no possible means of ascertaining: such as the losses to be sustained by the assailants in carrying her; the state of her equipment for defence or for sailing; of the wind, weather, &c. Her destruction by so well-planned and daring an enterprise, was deservedly considered as of the utmost importance to the operations then going on against Tripoli; as well from its moral effect upon the enemy, as the abstraction of so much of his positive force. This great object, the Commodore concluded from the facts and circumstances then known to him, would have been put in too much hazard by an attempt to push the enterprise to the point of still more signal and glorious success, by bringing off the prize in the face of the enemy. But it turned out, in the event, that this would have been far the safer and easier achievement.—
 *Tis understood, indeed, to be the opinion of the most experienced

and skilful naval commanders, that if Com. Preble had conducted the enterprise in perso he would, upon the spot, and with a full view of all the circumstances, have changed his plan, and brought off the frigate. This is well known to have been the decided and clear opinion of the illustrious commander, who first suggested, and then executed the enterprise with so much glory and advantage to himself and his country. 'Tis well known that while he faithfully and punctually fulfilled the orders of his superior in command, he would gladly have followed the bent of his own genius, by taking the course pointed out by the circumstances and the event of the action.

As to one of the questions which have been suggested in this case, whether the captors acquire a beneficial property and interest in a maritime prize of war, before adjudication, I have, on a former occasion, been called upon to give it full consideration: and the opinion then expressed, and the reasons advanced in the affirmative, I yet adhere to, with a confidence corroborated by the success with which they were maintained before a tribunal of pre-eminent learning and talent.

The general principle, deduced from the maritime law of nations, has been settled by repeated decisions, of the highest authority in this country; and stands clear of any possible doubt. The transfer of the property of prize, from the one belligerent to the other, at the instant of the capture; a property for which the victor's flag is the all-sufficient badge, and which can be divested only by recapture or by the sentence of a competent court;—the consequent capacity of the captor to vindicate his right of property and possession by every species of possessory action, or other judicial remedy inherent to every lawful possession, coupled with a beneficial interest, have been distinctly and conclusively established by a concurrence of numerous decisions, both in the former federal court of appeals, and in the present supreme court of the U. States. By these the property is held to be so indefeasibly vested in the captor, by the mere capture, without adjudication as prize, that it was not divested by his setting fire to his prize at sea, and giving her up to destruction, for the want of adequate force to bring her into port. This was decided by the federal court of appeals, in the *Mary Ford*,* and reconsidered and approved by the supreme Court in the *L'Invincible*.† An American ship found the *Mary Ford* in this desperate condition at sea, extinguished the fire, and brought her safe into port; where she was claimed both by the original British owner and by the French captor: the claim of the former was rejected, and restoration on salvage decreed to the captor. In the *Josepha Secunda*‡ it was decided that an unadjudicated prize, brought by the captor into a neutral port, might there be absolutely forfeited by a breach of the local laws of trade. A stronger illustration of the rights acquired by mere capture, before condemnation, need not be desired: for here, an indefeasible transfer of the property was held to have been operated by the sole act of the captor; and expressly for the reason that his title is vested by virtue of the capture alone, and instantaneously that it is achieved: subject to be divested only by recapture, or by the sentence of a competent tribunal.||

* 3 Dal. 188.

† 1 Wheat. 259.

‡ 5 Wheat. 357.

||For some additional illustration, vid. the *Revolution*, 2 Dal. 1. The *Neustra Senora*, 4 Wheat. 391.

Such are the clear and unquestionable rights of property incident to maritime capture, *jure belli*, as deduced from the maritime law of nations. That there is no distinction, in this respect, between the rights of belligerent captors in general, and those of the officers and men belonging to the public and private armed ships of the United States, under the several acts of Congress by which their respective rights are recognised, has been settled, after full discussion and mature consideration, by the late Board of Commissioners for the adjudication of claims upon Spain, under the treaty with that power, commonly called the Florida treaty; which was the occasion, before mentioned, which had formerly led me to examine the question. It was there presented in various cases of captures during the late war with Britain, some by our public ships of war, some by privateers; whose prizes had been seized or despoiled in Spanish ports, before adjudication. In these cases, it was decided that the captors in both descriptions of capture, had acquired such an interest in their respective prizes, by the mere capture, without any adjudication, as entitled them to demand indemnity from Spain, just as any other proprietors, who had suffered the like injuries, and, consequently, that they ought to be admitted as claimants under the treaty. It was never imagined that, when the acts of Congress superadded the solemnity of condemnation, as one of the requisites to the full and perfect enjoyment of the fruits of prize, it was intended to make it the preliminary requisite to the investiture of the right of property. By the terms of the act, it is made necessary for the purpose only of authorizing the *disposal* of the prize, and the *distribution* of the prize money. The specific property in the prize itself, was not in the contemplation of the legislature; they speak only of the "proceeds" and the distribution of the "prize money" resulting from the disposal of the prize after condemnation: it is for this only that the captors are to await the process of regular adjudication.* This precaution of public policy, to prevent the irregularities and abuses that might follow from the unlimited disposal and appropriation of prizes by captors, without any judicial sanction of the capture, has been more distinctly pronounced and emphatically enjoined in the case of privateers;—who are expressly forbidden to break bulk, or make any other disposal or conversion of their prizes, before due condemnation by a competent tribunal.† It never entered into the conception of Congress to make any change in the rule of public law, by which the transfer of the property of prize from the one belligerent to the other had been determined. To have placed the rights of the officers and men of our own navy upon a foot of inequality, in this respect, with those of other nations, would have been not more injurious to the individuals, than a disparagement of the belligerent rights of the United States a sovereign power.—The only office and effect assigned to a sentence of condemnation, by the various acts of Congress on the subject of recapture, salvage, and prize, are merely to annex to the right of property, acquired

* Vid. Act of April 23, 1800, ch. 33, for the better government of the Navy, sects. 5 and 6, vol. 3, p. 369.

† Act of June 26, 1812, ch. 107, sec. 6, vol. 4, p. 450.

jure belli, the qualities of being disposable; so as to let the captors into the actual fruition of the proceeds, and to bar the right of postliminy in the original owner, as opposed to the rights of recaptors and vendees. Beyond this, the greatest sticklers, elsewhere, for the necessity of adjudication to consummate the property of prize, have not pushed the doctrine in *practice*. As to the case of the *Elsebe*,* decided by Sir William Scott, I do not think that any fault can be found with the decision upon the point directly put in issue by that case;—which was simply that the government may, by a treaty of peace, lawfully restore a prize before condemnation; and that the question of compensation to the captor rests with the government, and not with the court of prize. I should not have doubted the power of the British government, or of any other government, to do this, in virtue of the *Eminent Domain* incident to sovereignty; but upon the indispensable condition of making just compensation for the private rights of property affected by the measure: a condition which public morality and public law have made co-extensive with the power; and which has, in express terms, been annexed to it by the Constitution of the United States.† The principle derogates nothing from the captor's inherent right of property, in virtue of the mere capture; because it extends to every species and quality of property belonging to the citizens or subjects of the sovereign, without distinction, whether it be qualified in its nature, or consummate and perfect. In the argument of the court, however, in the *Elsebe*, some *dicta* are uttered, going rather beyond the principle necessary to be decided in the case. These may be referred to certain peculiar and favourite doctrines of that court, on the general necessity and effect of a sentence of condemnation, which have, in a great measure, resulted from the policy and interest of Britain in her relative condition as a maritime power: but from which to infer a sentence of condemnation to be an indispensable prerequisite to the transfer of the property of prize from one belligerent to another, would be not only to set aside the whole current of decisions in our own courts, sustained by those of the great majority of civilized nations: but would very far transcend any practical decision in England, either of the courts of admiralty or of common law;—notwithstanding some certain *dicta* of the former.—Their courts of common law have clearly decided, that the captor acquires a beneficial interest in the prize, upon which he may effect insurance, “from the moment the victor hoists his flag on board the conquered ship.”‡—The present claim, like that of insured upon insurer, is strictly a claim for *indemnity*;—in which it is universally held to be utterly immaterial whether the property be qualified and require some ulterior process for its consummation, or be consummate to every practical purpose of perfect fruition. It has already been shown, that upon general principles, and according to all law and precedent in this country, the property of the captor, in an adjudicated prize, is consummate to every beneficial purpose but that of being chang-

* 5 Rob. 155.

† NOTE.—This doctrine has been adverted to, and pretty fully explained in the memorial of Mr. Meade, presented to the President some years ago—and about to become a subject of discussion before the present Congress.

‡ 1 Marsh. on Insur. 107-8.

ed into the shape of prize money for distribution; and of being assignable, *ad infinitum*, discharged from the right of postliminy; and when the actual decisions of the English courts of admiralty and common law come to be critically examined and compared, they will be found to give the same practical result.

Whether Congress, when they awarded compensation, in lieu of prize money, to the captors of the *Guerriere* and *Java*, proceeded upon the ground of strict right or of equitable indemnity, cannot perhaps be positively asserted. But either way, these precedents come up fully to the principle of the present claim;—if they do not go beyond it. In those cases, the destruction of the prizes necessarily resulted from the action, and from the fortune of war;—while in this, the captors might have preserved their prize, and enjoyed the fruits of their toil and danger, but for the intervention of an overruling order, positively forbidding it. In other respects, it is submitted with confidence, that there can be no defect of merits, either positive or comparative, in the captors of the *Philadelphia*, to exclude them from the benefit of these precedents; whatever the principle upon which they were established.

W. JONES.

December 9, 1825.

Legal Opinion of R. S. Core, Esq.

CASE.

An American man of war having succeeded in effecting the capture of an enemy's vessel of superior force; having entirely dispossessed the enemy, and obtained undisputed possession, in obedience to peremptory orders, destroys the prize without bringing her into port, and before obtaining a decree of condemnation in a prize court; have such captors any legal claim to the value of the captured property, as against the United States?

OPINION.

The claim of captors to the proceeds of prizes taken by them from the enemy, is founded on the 5th sec. of the act of Congress of April 23, 1800; which enacts that "the proceeds of all ships and vessels, and the goods taken on board of them, which shall be adjudged good prize, shall, when of equal or superior force to the vessel or vessels making the capture, be the sole property of the captors."

By the law of nations, and independently of any statutory provision, all captures enure to the exclusive benefit of the government. Most nations, however, have, for the purpose of stimulating those in their service to greater vigilance and activity, granted this interest, or a portion of it, under special circumstances, to the individuals by whom the prizes are made. The statute to which I have referred, contains the terms and conditions upon which this right is transferred in the cases specified under our own law. It operates as a contract between the nation and the captors.

It might be imagined that the language of the statute implies that condemnation as prize of war is an essential preliminary to the vesting of this right. I cannot, however, bring my mind to the conclu-

sion, that Congress, in this indirect manner, designed to commit the country upon the important and much litigated question, when the right of property is completely vested in the captors. Some writers on public law have held that condemnation is essential; others, of equal authority, have sanctioned the opposite doctrine.—From obvious motives of policy, Great Britain has lent her countenance to the former opinion, but it has never yet been absolutely settled in this country; and it cannot easily be believed that Congress designed to determine the question in this collateral manner. Indeed, there seems little necessity for insisting upon it as indispensably requisite, except in the case of neutral property which has become obnoxious to capture by some violation of belligerent rights. The right of the neutral, presumptively unquestionable, ought to be divested only by a judicial decree fixing upon him the offence which involves as its consequence the forfeiture of his property as prize. Where, however, the property is avowedly and notoriously hostile, condemnation as prize is not universally necessary, and may be regarded as little more than a mere formality. Our own courts have held that simple belligerent possession confers a right which can be questioned only by superior force of arms on the part of the enemy, or its validity judicially determined in the courts of the captors themselves. At all events, under the strictest decisions of the English courts, an inchoate right vests immediately by the very act of capture, which is recognized as susceptible of transfer, of insurance, and other acts of ownership, and which is distinguishable only in degree from the same rights when perfected by the decree of a prize court.

In this view of the case, I am unable to discriminate between a right of this description, and any other species of property, which, by the constitution of the United States, it is prohibited to take for public purposes without compensation. If a capture has been legally effected, if the captors are in undisputed possession of the prize, and the government, to subserve its own purposes, surrenders it to the enemy, relinquishes it to a neutral, employs it in military operations, by which it is lost to those interested in the proceeds, or consigns it to inevitable destruction, it appears to me that it is bound by every principle of equity and of law to compensate the individual captors to the full value of their respective interests.—The constitution equally protects the citizen in the enjoyment of those rights of property which are inchoate and remain to be perfected by some ulterior proceedings, as of those which are absolute and indispensable.

Upon another ground, I conceive the claim to be equally well founded: even upon the supposition that condemnation by the admiralty was an essential preliminary to the vesting of the right in the captors. If the performance of this condition has been prevented by the act of the government itself, it is by every principle of law precluded from availing itself of the fact of such non-performance. To interpose an insuperable impediment in the way of the performance of a condition, is tantamount to a waiver of it. If, then, by the authority of the government or of superior officers, who must be considered as the organs of the government, captured property is taken out of the hands of the captors and appropriated

to public purposes, and the captors are thus deprived of the power of obtaining a condemnation, they stand in the eye of the law in the same predicament; and their rights are as perfect, as if the decree of condemnation had actually passed. The physical power belongs to the government; and that may as well be exerted after the prize is brought into port, delivered into the custody of the marshal, and the cause is ready for judgment, as at the moment of capture, or at any intermediate period of time. An interposition of this kind it is usual to put as one of those extreme cases which cannot practically be anticipated, because it would be indecorous even to suppose the government guilty of so gross an act of injustice.

The principles which have been stated seem to have been recognized and sanctioned by the highest authorities in our country, on some memorable occasions. It is necessary to refer only to one, which strikes me as perfectly coincident. In the summer of 1805, a squadron under the command of Commodore Decatur, captured an Algerine frigate and a brig—they were in possession of the captors. With a view to promote the public interests, the negotiator for peace agreed to restore them to the enemy—not by treaty, but as a voluntary donation after the treaty was completed, and because of their small value to us, as well as the great impression upon the enemy, as to our resources, which such an act would produce. No condemnation had passed, the prizes had not been sent to the United States—yet Congress considered the rights of the captors as perfect, and their interests as sacred; and they were accordingly compensated. The same principle applies with equal strength to the case of a voluntary destruction by order of the government, as to that of a voluntary surrender. If any difference exists between the cases, it consists in this single circumstance: that in the one case the surrender was in virtue of a general authority, which subsequently received the sanction of the government; in the other, the destruction was in compliance with previous orders.

The only judicial decision which I am aware of, which can be thought to contravene the principles which I have laid down, is one made by Sir William Scott, in December, 1804. (*The Elsebe*, 5 Rob.) That was the case of a Swedish vessel, which had been captured, and before condemnation, ordered to be restored; and the captors insisted upon their rights, notwithstanding the order of the government for the restoration of the property. The very distinguished judge, by whom the point was determined, viewed the question as one of great delicacy and difficulty, but he finally decided against the claim. Upon this decision, it is important to remark, 1. That the date of it being subsequent to the destruction of the *Philadelphia*, it cannot with fairness be held to govern the case. 2. The principle which rests at the foundation of the judgment, viz: that a decree of condemnation is essential to transfer the property, is not yet established in this country. It has been adopted in England from considerations of policy. The same motives, if they extended to the same extent in the U. States, have not yet been permitted to influence the decisions of our judicial tribunals. 3. The prerogative of the sovereign was considered as involved in the ques-

tion, and influenced the decision of the court: here no such collateral motive exists. 4. The constitutional prohibition to apply the property of individuals to public purposes, without compensation, does not operate in England, to stay the arm of the government in disposing of the interests of its subjects. 5. The language of the grant to the captors in England, is much more restricted than that of our own statute; it directs that the prize may be lawfully sold and disposed of, "after the same shall have been to us finally adjudged lawful prize, and not otherwise;" recognising in express language, the necessity for a condemnation as an essential prerequisite before any interest vests in the captors.

If, under these circumstances, Sir Wm. Scott felt the difficulty and delicacy of the question before him, it can scarcely be doubted that had he been sitting in an American instead of an English court, administering justice under our statute, and guiding himself by the principles of our constitution and government, he could scarcely have hesitated in sanctioning the validity of the claim of the captors.

On the whole, my opinion is, that in every case in which the captors have been prevented by the act of the government or its lawfully authorized agents, from proceeding to adjudication and obtaining a decree of condemnation, the fair and just interpretation of the statute entitles them to remuneration to the full value of the property captured. As, however, no suit can be sustained against the United States, to enforce any pecuniary claim, the only resource is an application to the justice and equity of Congress.

The foregoing opinion assumes for its basis the two facts, that the vessel might have been brought out of the enemy's port: and that this was not done, by order of the commander. The situation of the Philadelphia frigate, not more than from two miles to two and a half from the mouth of the harbour; the wind favourable, which would have enabled her to pass over this space within a quarter of an hour, justify the minds of those who are not skilled in nautical matters, the decided opinion of Captain Jones, than whom no more competent judge can be found, and of the pilot who accompanied the expedition. The orders of Commodore Preble are equally decisive of the other question.

RICHARD S. COXE.

Georgetown, D. C., Dec. 2nd, 1825.

Copy of the last Will of Com. Stephen Decatur.

I, Stephen Decatur, of the U. S. Navy, now residing in the City of Washington, do make this my last Will and Testament, as follows:

I give and devise to my beloved wife, Susan Decatur, and her heirs, all my estate, real, personal and mixed, wheresoever situated; and I appoint my friends Littleton Waller Tazewell, of Norfolk, Robert G. Harper, of Baltimore, and Geo. Bomford, of the City of Washington, together with Mrs. Decatur, my wife, to be Executors of this my Will.

In witness whereof, I have hereunto set my hand and seal, this twenty-second of March, one thousand eight hundred and twenty.

STEPHEN DECATUR, [L. S.]

Signed, sealed, published, and delivered, on the day and year aforesaid, by the Testator, as his last Will and Testament, in presence of us, who, at his request, and in his presence, and in the presence of each other, have hereunto subscribed our names as witnesses.

JNO. RODGERS,
THOS. SIM,
SAML. R. TREVITT.

LIST of Vessels destroyed, recaptured, or restored, with the amounts allowed by Acts of Congress for the same.

LAWs U. STATES.	VESSELS CAPTURING	VESSELS CAPTURED	AMOUNT.	REMARKS.
Vol. IV., p. 522	Constitution	Guerriere	50,000	Destroyed
ib.	do.	Java	50,000	do
ib.	Wasp	Frolic	25,000	Recaptured
ib. 543	Hornet	Peacock	25,000	Destroyed
ib.	-	Detroit	12,000	
ib. 693	-	Lake Erie vessels	255,000	} Purchased
		To Capt. Perry	5,000	
ib. 835	-	Lake Champlain vessels	310,000	Purchased
Vol. VI., p. 17	Hornet	Penguin	25,000	Destroyed
ib. 77	Wasp	Avon and Reindeer	50,000	} Destroyed
		And one year's pay		
ib. 86	Constitution	Levant	25,000	Recaptured
		Cyane	40,000	Purchased
ib. 115	Squadron	Algerine vessels	100,000	Restored
		Barataria vessels	50,000	} Captured from pirates
ib. 118	Land and naval force	To be paid out of fines and forfeitures		
ib. 366	Preble, Stewart, &c.	Transfer	2,500	
Vol. III., p. 590	John Adams	Mesbouda	8,594	Restored
ib.	Philadelphia	Mirboha	5,000	do
Vol. VII., p. 40	Two gigs	Black Snake	3,000	Destroyed
	United States	Macedonian	100,000	Purchased

To which add the British sloop of war Hermes, destroyed by the garrison of Fort Boyer, Mobile Point, in September, 1814, and paid for (full value, \$40,000,) by act of Congress.

PRIZE LISTS

OF THE

GURRIERE, MACEDONIAN, AND JAVA:

THE ONLY SHIPS OF THE SAME CLASS OF THE PHILADELPHIA THAT HAVE EVER BEEN CAPTURED BY OUR NAVAL FORCES.

A STATEMENT showing the proper distribution of the sum of one hundred thousand dollars, received from the Secretary of the Navy of the United States, on the 25th March, 1813, being part of the sum of two hundred thousand dollars awarded to the "Commander, Officers, and Crew of the United States' Frigate United States, in lieu of the British Frigate Macedonian, their prize, captured by the said Frigate United States," on the 25th day of October, 1812, and taken by the Government of the United States at a valuation of two hundred thousand dollars.

	No. of 20ths.	No. of persons.	Share of each.	Amount of each class.	Total.
Whole sum to be distributed, as above, (at this time,) - - - - -	-	-	- - - - -	- -	\$100,000
CLASS FIRST. Consisting of one Commander, - - -	3	1	- - - - -	\$15,000	
CLASS SECOND. Consisting of 6 Sea Lieutenants and one Sailing Master, - - - - -	2	7	1428 57 1-7	10,000	
CLASS THIRD. Consisting of one Chaplain, two Lieutenants of Marines, one Surgeon, one Purser, one Boatswain, one Gunner, one Carpenter, four Master's Mates, - - - - -	2	12	833 33 1-5	10,000	
CLASS FOURTH. Consisting of 15 Midshipmen, 2 Surgeon's Mates, 1 Captain's Clerk, 3 Boatswain's Mates, 2 Gunner's Mates, 2 Carpenter's Mates, 1 Ship's Steward, 1 Sailmaker, 1 Master at Arms, 1 Armourer, 1 Cockswain, 1 Cooper, - - - - -	3½	31	564 51 19-31	17,500	
CLASS FIFTH. Consisting of 1 Gunner's Yeoman, 1 Boatswain's Yeoman, 8 Quarter Masters, 9 Quarter Gunners, 1 Sailmaker's Mate, 3 Sergeants of Marines, 2 Corporals of Marines, 1 Drummer, 1 Fifer, - - - - -	2½	43	260 41 2-3	12,500	
Extra petty officers { 1 Ship's Corporal, 16 Captains of Guns, 2 Captains of Tops, 1 Captain of Forecastle, 1 Captain after Guard, SIXTH CLASS. Consisting of 173 Seamen, 143 Ordinary Seamen, 47 Marines, 9 Landsmen, 4 Boys, - - - - -	7	231	91 86 3-8	35,000	
	20	480		100,000	

STATEMENT showing the distribution of the sum of \$50,000 among the crew of the Frigate Constitution, for the capture of the British Frigate Java.

RANK.	Class.	Number.	Proportion.	Sum award- ed.	Pro- portion of each.
Captain, - - - -	1st	1	3-20	\$50,000	\$7,500
Lieutenants and Sailing Master, - -	2d	6	2-20		833 33
Chaplain, Lieutenants of Marines, Surgeon, Purser, Boatswain, Gunner, Carpenter, and Master's Mates, - - -	3d	11	2-20		454 54
Midshipmen, Surgeon's Mates, Captain's Clerk, Boatswain's Mates, Carpenter's Mate, Ship's Steward, Sailmaker, Master at Arms, Armorer, and Gunners' Mate,	4th	34	3½-20		257 35
Gunner's Yeoman, Boatswain's Yeoman, Carpenter's Yeoman, Quarter Masters, Quarter Gunners, Sailmaker's Mates, Ser- geants and Corporals of Marines, Drum- mer, Fifer, and extra petty officers, -	5th	40	2½-20		156 25
Seamen, Ordinary Seamen, Marines, Boys, and all other persons doing duty on board,	6th	393	7-20		44 52
		485		\$50,000	

*Frigate Constitution—Hull—Capture of the *Guiriere*—\$50,000 voted by Congress to the Captors.*

Crew of the Constitution—whole number 471—Distribution:

CLASS.	Number in each class.	Amount dis- tributed.	Proportion to each class.	Aggregate amount to each class.	Amount to each class.
1	1	\$50,000	3-20ths.	\$7,500	\$7,500
2	7	-	2-20.	5,000	714 28
3	9	-	2-20.	5,000	555 55
4	29	-	3½-20.	8,750	301 07
5	36	-	2½-20.	6,250	173 61
6	339	-	7-20.	17,500	44 98
	471			50,000	

NOTE.—The original prize lists may be seen on application to Charles W. Goldsborough, Esq. Secretary to the Navy Board.

HOUSE OF REPRESENTATIVES, }
JANUARY 6, 1829. }

Mr. HOFFMAN, from the Committee on Naval Affairs, to which was referred the bill from the Senate, entitled "*An act to compensate Susan Decatur, widow and representative of Captain Stephen Decatur, deceased, and others,*" reported the same without amendment.*

AN ACT to compensate Susan Decatur, widow and representative of Captain Stephen Decatur, deceased, and others.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the sum of one hundred thousand dollars be, and the same is hereby appropriated, as a full compensation and remuneration to Susan Decatur, widow and representative of the late Captain Stephen Decatur, commander, and to the officers and crew of the United States' schooner Intrepid, for the capture and destruction of the Tripolitan frigate, late the United States' frigate Philadelphia, out of any money in the Treasury not otherwise appropriated.

Sec. 2. And be it further enacted, That the said sum of one hundred thousand dollars be divided among, and paid (under the direction of the Secretary of the Navy) to, the commanding officer of the squadron, and to the surviving officers and crew of the said schooner Intrepid, and the representatives of such as are dead, in the manner following, that is to say:

To the widow of the late Com. Preble, commander of the squadron,					\$5,000	00
To Susan Decatur, widow and legal representative of the late Stephen						
Decatur, commander of the expedition, the first class,					-	- 31,412 42
2d Class, three persons, who will receive each					\$4,188 32 -	- 12,564 96
3d do	5	do	do	do	2,991 65 3-5	- 14,958 28
4th do	9	do	do	do	1,357 32 5-9	- 12,215 93
5th do	11	do	do	do	1,006 80 9-11	- 11,074 89
6th do	42	do	do	do	304 13 1-7	- 12,773 52
						\$100,000

*This bill passed the Senate by a majority of 32 to 13.

NOTE.—The above distribution was calculated and recommended by the Navy Commissioners, as being, in their opinion, the most equitable that could be applied to the case. It preserves the same disparity of proportion for the different grades of officers and men, that prevails under the prize act, when applied to a regular crew.

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